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Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Second Session, 33rd Parliament

Tuesday, December 2, 1986

Speaker: Honourable H. A. Edighoffer

Clerk of the House: C. L. DesRosiers

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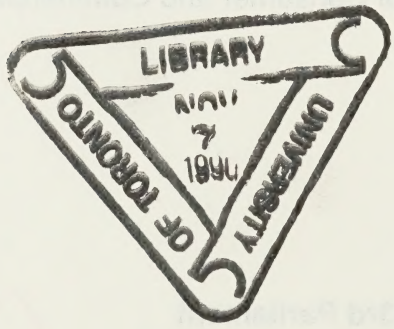

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, December 2, 1986

After other business:

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

16:52

On vote 1201, ministry administration program; item 1, main office:

Mr. Chairman: I call vote 1201, which effectively puts us into estimates. The clock may start.

Minister, welcome to the standing committee on administration of justice. It is certainly nice to have you here, sir.

Hon. Mr. Kwinter: Thank you, Mr. Chairman. It is a pleasure for me to appear before this committee as Ontario's Minister of Consumer and Commercial Relations. I would like to use my opening statement to provide an overview of my ministry and to comment on some specific initiatives.

Today, of course, I am wearing my Consumer and Commercial Relations hat. As members are aware, my previous responsibilities were split at the beginning of April. The resulting creation of the new Ministry of Financial Institutions has allowed for a more concentrated and separate focus of attention and resources on both financial institutions and consumer protection.

Consumer and Commercial Relations is one of the most diverse ministries in the Ontario government and the acts and regulations it administers affect many businesses and virtually every citizen in the province. Today, the 2,000 people in my ministry administer 54 pieces of legislation.

The basic purpose of the ministry is to serve consumers and the business community by actively promoting an honest, equitable and safe marketplace and by fostering better relations between business and consumers.

We pursue this goal by endeavouring to promote sound business practices, by facilitating economic growth and development in Ontario, by informing and assisting consumers and promoting their interests in the marketplace and by developing new and creative methods of fostering better consumer and commercial relations.

Perhaps one of the great advantages the ministry enjoys is identified by its name, the Ministry of Consumer and Commercial Relations.

As a regulator of business, we gain an awareness and understanding of issues and developments in the commercial community which enhance our ability to promote consumer interests. The dual nature of our responsibilities, in effect, fits hand in glove and allows the ministry to provide more effective service to both segments of its constituency.

Also as part of its mandate, the ministry collects data and provides an efficient system of public information in the registration of vital statistics, property and companies in Ontario, enforces technical standards relating to public safety, applies standards for public entertainment in the areas of film, lotteries, athletics and horse racing and administers liquor distribution and sales in the province.

Consumer protection through law and regulation has a relatively short history in Canada and Ontario. The Ontario provincial government made its first major move into the field in 1966 with the creation of the Department of Financial and Commercial Affairs. A year later, the first Consumer Protection Bureau was formed to administer the Consumer Protection Act, and in 1972 the Ministry of Consumer and Commercial Relations was created.

The general principles which inspired consumerism, or the consumer movement, back in the 1960s are still at the core of the ministry's work today. The need to be informed is a fundamental interest of the consumer, but the need to be informed goes well beyond protection against deception. It also requires the provision of sufficient information to make wise purchase decisions. To this end, a great deal of legislation has been designed to ensure that useful disclosure is available to consumers on everything from the price of money, or interest rates, to the costs and contents of goods and services.

There is also a recognition of the consumer's need for safety, which implies protection against the sale and use of goods that are hazardous to health or life. Such a need has motivated numerous laws to protect consumers when they

cannot be expected to have sufficient knowledge to protect themselves.

In this area of consumer safety, the technical standards division of the ministry works with private industry to develop safety standards for elevators, escalators, pressure vessels, fuels, upholstered articles and, most recently, amusement rides. There is an understanding that consumers should have a choice of goods, services and availability in the marketplace.

As well, we acknowledge the consumer's need to be heard, and heard in such a way that the consumer's interest will be considered in the formulation of government policy and regulatory proceedings, as well as being heard and responded to by business. Gone, I hope for ever, are the days when the only consumer warning was caveat emptor, buyer beware, when people could only wring their hands and mutter, "That's life," in situations where they had purchased defective goods, were dissatisfied with the service or felt ripped off in other ways. Caveat emptor has been balanced off with caveat venditor, seller beware. In a shift of philosophical gears, the seller has been made responsible where improper business practices have been used to promote the sale of goods.

I hope this brief preamble establishes the context for our discussions concerning my ministry's legislative record and initiatives. Certainly, the balancing of interests of consumers and of business forms the basis of virtually all our legislation and regulation. Since my appointment as minister in June 1985, the ministry has brought forward a number of initiatives that illustrate our efforts to deal fairly on behalf of Ontario consumers and in support of the province's business community.

A great deal of this activity has taken place in the ministry's business practices division, a division with a very high public profile. The business practices division administers close to 20 acts and regulates industries that account for business for Ontario in excess of $60 billion annually. In an average year, the division will handle more than 12,000 formal complaints from consumers on a wide variety of subjects from home repair contracts to mail order services.

Within its legislative mandate, the ministry is often able to mediate disagreements between consumers and business. Last year, the division's eight consumer advisory service bureaus across the province handled 12,000 complaints and won financial redress for consumers of more than $1 million and helped them out of apparent obligations of more than $1.25 million.

Through the division's investigation and enforcement branch, we are often called upon in situations where the less subtle presence of the law is required; for example, in cases of outright fraud or misrepresentation. More than 500 investigations were carried out during the past fiscal year, resulting in more than 1,000 separate charges under the Criminal Code. The branch's conviction rate approaches 80 per cent.

A number of initiatives within the division reflect the creativity the ministry brings to the job of consumer protection, often by using the power of persuasion as effectively as the power of regulation.

For example, the committee is probably aware that we have gained the support of the motor vehicle industry for a fund that will be used to compensate consumers who have prepaid for vehicles but never received them because the dealership went bankrupt. As well, unsatisfied judgements where the statement of claim indicates a transaction involving a trade in a motor vehicle and proven claims in bankruptcies against registered car dealers will be paid by the proposed fund.

The self-sustaining fund will be supported by a one-time fee of $300 to be paid by the estimated 6,000 registered auto dealers in the province, providing dealer registration is maintained. Since October 1, consumer purchases of a motor vehicle from a registered dealer have been protected by the fund. This fund operates in a fashion similar to that of my ministry's now familiar travel industry compensation fund that has protected thousands of travellers from financial loss over the past decade.

Another development in the area of consumer protection related to the motor vehicle industry is the Ontario motor vehicle arbitration plan, better known as OMVAP. I should explain that OMVAP is a unique co-operative nonlegislative approach to resolving consumers' automobile complaints. It provides qualified, independent arbitrators to settle consumer disputes concerning alleged manufacturing defects in vehicles sold in Ontario.

Complex and detailed negotiations took place to bring all the involved parties to agreement and to a common understanding of how the program would work, and to develop a common set of operating rules and remedies. I am able to report the plan went into effect November 15, 1986.

We have been charting new waters here. Nothing on this scale has been attempted before in any jurisdiction in North America. Developing the plan has involved the co-operation of 21

automobile companies, two industry associations, four quite diverse community organizations, and the ministry. Covered under the plan are both first and subsequent owners of noncommercial vehicles as well as individually leased vehicles. It offers the arbitrator the scope to award consumer repairs, refunds or replacement of the vehicle, depending on the defect, age and use of the vehicle. The same remedies are available, regardless of the vehicle's make. Arbitrator decisions are binding on both parties.

17:00

After one year, the new program will be reviewed. After two years, a full, in-depth audit will determine its effectiveness. In yet another area of the business practices division, we have identified, in the speech from the throne, the need for government to update its policies to protect consumers. My ministry will review statutes and propose legislation to make them more sensitive to consumer needs and more adaptable to changing markets and technologies.

We are committed to bringing the consumer legislation of the 1960s and 1970s up to date with the needs and realities of the 1980s and 1990s. Today's consumers are more self-reliant, participatory and informed than at any other time in history. It is a new world out there and we must be prepared to meet the challenges it offers.

We have also recognized that economic changes have given rise to a new need for government review of its policies to protect consumers, while allowing fair scope for business expansion. We will be looking at the relevancy of our legislation as well as consulting with interested parties. Instead of dealing with each new problem on an ad hoc legislative basis, we want to develop a comprehensive strategy, an omnibus approach, if you will. Such an approach must not only balance the rights and responsibilities of both the consumer and the business community, but also must ensure our legislation is adaptable to changing market realities and the introduction of new technologies. Experts in consumer protection, business and law are now developing strategies and principles that will be applied to the foundation bill. These will encompass general consumer protection measures, as well as industry-specific legislation.

I would like to turn now, Mr. Chairman, to the classification and distribution of videotapes, an area that also falls within the broad mandate of the business practices division.

As the committee is probably well aware, legislative amendments providing for the approval and classification of commercially distributed videotapes for sale or rent to the public and the licensing of distributors and retailers have been approved by the legislature. Both the new video classification requirements and industry licensing provisions will go a long way towards addressing the needs of the video marketplace. The industry and the Ontario consumer of video products will benefit through the provision of classification information.

Along with my counterparts in Manitoba and Saskatchewan, we are taking steps toward the fulfilment of an interprovincial agreement concerning shared classification information on video products for home use in the three jurisdictions. This is a rapidly growing and changing industry and one that shows great ingenuity in the distribution and marketing of its many products. It is most important that the administrative and technical aspects of our program be flexible enough to reflect the realities of the marketplace and at the same time provide appropriate guarantees that our objective of providing classification information to consumers be met.

Ministry personnel and video industry representatives are working together to modify the program to provide necessary information to the public without unduly restricting the industry's efficiency. To assist in this process and to provide an independent view, the ministry commissioned management consultants. Along with our provincial counterparts in Saskatchewan and Manitoba and the industry, we are using the consultants' report as a basis from which to develop a better program, which I hope to announce in the near future.

At the Ontario Film Review Board, we have appointed Anne Jones as part-time chairman. She is former chairman of the regional municipality of Hamilton-Wentworth. The board, under her leadership, is responsible for reviewing, approving and classifying films and videos. In addition, we have named an acting director of the theatres branch, in keeping with our plan to free the chairman of the responsibility for the branch's day-to-day operations.

I would now like to turn to the activities of my ministry's registration division. As I mentioned earlier, the ministry collects data and provides a system of public information in the registration of vital statistics, property and companies in Ontario. We are now looking into concepts to allow direct client access to a variety of public data through individual ministry offices across the province.

What we plan is the expansion of our land registry office in each county into a kind of information centre. The public, as well as the business and legal communities, will be able to register land ownership, incorporate a business, apply for birth certificates and name changes and inquire about the ownership of personal property at the same regional office of the ministry.

To this end, business incorporation services have been made available in 11 of our 65 land registry offices and we are considering further opportunities for expanded regional services.

In this connection, I have already announced a two-year pilot project in the London land registry office. Area residents are now able to obtain and complete the application forms required for birth, death and marriage certificates. The completed forms are sent to Toronto by same-day courier for processing and within a matter of days are in the mail on the way back to the client.

I think people needing a birth certificate to obtain a passport, and senior citizens needing one to apply for pensions, will find this service very valuable. These new arrangements have reduced the waiting time by more than 50 per cent. At the end of the trial period, we will assess the demand for the service to determine whether it should be expanded to other communities.

The London registry office, in addition to its real property program, currently provides business incorporation services and has direct, on-line computer inquiry to the personal property database. As a result, London is an excellent example of the direction we will continue to pursue in offering one-stop public access to ministry registration services. In fact, Kitchener and Windsor are also offering on-line personal property security registration inquiry and Ottawa will follow in January.

I am pleased to add that in offices located in Ottawa, Sudbury and Sault Ste. Marie, we are offering over-the-counter incorporation in both English and French.

In another pilot project, we will be offering bilingual land registration services, no later than April 1987, in the Sudbury and L'Orignal registration offices. At the option of the client, documents in French may be registered, abstracted and filed in French only.

I would like to point out that we have changed the hiring practices of land registrars. Instead of appointing them through orders in council, we are extending to those candidates the same fair and impartial hiring practices that are used for all other civil service applicants.

We have also made changes that should cut down on red tape for businesses. Amendments to the Business Corporations Act now enable corporate registrants and clearing agencies to transfer services by computer and to monitor the ownership of their publicly traded shares according to the rules and regulations set down by the Ontario Securities Commission and the Toronto Stock Exchange.

Members will recall that we have recently taken on the responsibility to administer the extended provisions of the Vital Statistics Act and the change-of-name provisions. In keeping with our commitment to equal rights and our respect for the customs of various ethnic groups, we have amended the Vital Statistics Act to enable parents to give either one's surname, or both surnames, hyphenated in either order.

In addition, we are planning to introduce changes in the Personal Property Securities Act and in the operation of its registration and inquiry services. As you will recall, an advisory committee of distinguished volunteers, under the leadership of Fred Catzman, has been examining ways to update this useful legislation. The committee has submitted its report and we have finished examining the responses from the legal and business community to its proposals. We expect to introduce legislation in 1987.

Another area in which our efforts are getting a great deal of attention is that of alcohol sales and distribution in Ontario. During the summer of 1985, for example, we gave the green light to Ontario breweries producing less than 25,000 hectolitres, or 550,000 gallons, of beer annually to distribute directly to licensed establishments in the province.

These microbreweries have been allowed to distribute their beer independently, without having to use Brewers Warehousing. This initial exception to the general rule that has governed beer distribution in Ontario for more than 50 years will help the innovative and dedicated entrepreneurs who will, or have already, established microbreweries in Ontario. To date, five microbreweries have been opened around the province.

I believe another innovation that is indicative of the changing approach to alcohol retailing in Ontario has been the introduction, by the Liquor Control Board of Ontario, of the Vintages boutique concept. In the fall of 1985, it was my pleasure to open officially the first Vintages store in what was once the rare wines and spirits section of the LCBO store on Queen's Quay in Toronto.

Perhaps the most unique feature of the new Vintages stores is the presence of a tasting service which will allow customers to sample selected products. The tasting service represents, I believe, a significant step in opening the LCBO's extensive inventory for wider enjoyment by the people of Ontario by allowing them to try different or unusual products without having to make a commitment of the full purchase price.

17:10

I should explain that wine is sampled in 40-millilitre servings with the cost of each serving based on the retail value of the bottle of wine. Spirits such as blended Scotches and cognacs are sampled in 20-millilitre servings. Tastings are limited to four servings per person.

Three Vintages operations are now open in the Metro Toronto area and one in Ottawa. I am pleased that we will have another Vintages open in Ottawa next week and one more in London in 1987. More will follow.

Still with the LCBO, we have undertaken a program to redesign our stores. This includes improvement in display areas which will provide for the showcasing of Ontario's wines and other products. To date, 317 stores have been converted under this program. It is important to say that by these changes we are trying to improve the shopping environment, service and convenience to customers. We will continue to stress moderation in the enjoyment of beverage alcohol.

In August, I received the report of the Royal Commission of Inquiry into the Testing and Marketing of Liquor in Ontario. In the report, some LCBO staff, who are now retired, were criticized for allowing the sale of wine containing substances that could prove a health hazard if consumed over a lifetime. A major recommendation contained in the report called for establishing a body or organization to deal with setting standards or norms.

I understand from the chairman of the LCBO that an initial meeting took place in late November and included federal health authorities, provincial liquor and consumer representatives and representatives of the beverage alcohol industry.

At the Liquor Licence Board of Ontario, this government has approved regulations to allow licensed establishments to brew and serve their own draught beer on the premises. Essentially, the owners of any class of licenced establishment may now apply for a licence to open a brewpub on their premises. I am certain these new regulations are seen as an incentive by small business and the hospitality industry and will result in the opening of a number of brewpubs in Ontario.

Already, six brewpubs–in Kingston, Welland, Toronto, Niagara Falls, Heidelberg and Lindsay–are up and running and I am told applications for two more are being processed. The annual licence fee of $1,500 normally paid by Ontario breweries was reduced to $750 per year for brewpub operators in recognition of their smaller size.

Naturally, a number of safeguards have been put in place to ensure quality control and hygiene. Brewpub operators will also be required to post prominently the alcohol content of their product for the benefit of their customers. At the LLBO, the appointment of a new chairman and an entirely new board indicates our intent to modernize the way liquor is handled in the province.

Recently, the Ontario Advisory Committee on Liquor Regulation wound up its public hearings. Early in the new year, the committee will be making its report and recommendations to me. This should help us bring Ontario's liquor licence laws more in tune with the Ontario of the 1980s and to take us constructively into the next decade.

The committee, under the chairmanship of my parliamentary assistant, the member for Mississauga North (Mr. Offer), has conducted public hearings in 18 communities across the province. Committee members have listened to the public and the industry groups affected by the issues.

My ministry is also studying whether the consumption by young children of exempt beverages, containing less than one per cent alcohol, is a problem. In co-operation with the Addiction Research Foundation, we are surveying school principals, medical officers of health and police officers. We look forward to receiving the results of the study early in the new year.

Amendments to change the hiring practices of the LCBO and the LLBO, originally promised in the speech from the throne, have been approved and given royal assent. Employees of both these organizations will no longer be appointed by order in council. As with land registrars, candidates for positions with these two agencies will be subject to the same fair and impartial hiring and employment practices enjoyed by applicants for jobs in the Ontario Civil Service.

I would like to turn now to some recent undertakings in the ministry's technical standards program. An area of concern for public safety is amusement rides, go-kart tracks and

other similar public attractions. Historically, under the Municipal Act, amusement ride safety has fallen within the jurisdiction of the municipalities, but the fact is that most municipalities lack the human and financial resources needed to regulate amusement rides and many invited the province's involvement.

Since 1962 there have been 10 amusement ride fatalities and at least six serious go-kart accidents in Canada, including three fatalities here in Ontario. We therefore believe action had to be taken to maximize the safety of rides and related attractions used by the public.

The ministry took the initiative to bring forward legislation governing the safety of amusement rides. Recently approved, that legislation will require owners, operators and individual devices to be licensed and inspected regularly by the province.

Regulations are now in the final stages of preparation and should be fully in place for next season. The regulations will provide for an inspection of all rides by specially trained provincial inspectors and will govern design and maintenance of rides, accident reporting, qualification of industry personnel and other aspects of ride operation, insurance coverage and safety.

The regulations as they apply to go-karts are already in force. All go-kart tracks in Ontario were inspected this summer. Two were shut down because they did not meet with the ministry's standards.

The technical standards division also monitors the development and regulation of alternative motor vehicle fuels such as propane, natural gas and methanol and, as I have already pointed out, regulates many other areas where public safety is involved.

For instance, this division is currently investigating ways of curbing joyriding on elevators. An ongoing advisory committee has been formed with representatives of three major elevator companies and various provincial government departments. Recently, a prototype for an antijoyriding device was installed in a number of buildings on the committee's recommendation. We hope the device, which prevents elevators that have been tampered with from moving, will prove to be a practical solution in apartment buildings where a monitoring system has revealed joyriding is a problem.

Ministry staff has also met with police representatives to help set up an apartment tenant awareness program. As a result, the Metropolitan Toronto Police have recently agreed to incorporate warnings about elevator joyriding into their ongoing Neighbourhood Watch presentations.

If asked to choose two words to describe how the ministry approaches its duties, those words would be "protective" and "proactive." On each side of our consumer and business mandate, we recognize we must deal with issues of immediate concern in a fashion that eliminates the aggravation and frustration of having the same problems repeating themselves.

One way of avoiding such repetition, of course, is to reach out and talk with those on both sides of an issue. Regulation alone is not enough; we are also in the business of informing and helping people.

As I mentioned earlier, my ministry operates eight consumer advisory service bureaus, where help and advice is given to thousands of consumers. Over a 12-month period, the ministry's communications branch distributed almost 400,000 consumer information brochures covering a wide variety of topics of interest to the Ontario public.

In 1985, our storefront consumer information centre in Toronto handled more than 110,000 telephone inquiries and assisted almost 25,000 consumers in person. Our activities include not only those already mentioned, but also extend to workshops and consultations involving community educators and teachers in the formal school system.

As well, our communications branch produces a package of information for Ontario newspapers called Consumer Beats. Each package features four ready-to-use articles on topics of interest to today's consumers, including cautions, warnings and advice.

Every month, between 150 and 250 Ontario newspapers publish our Consumer Beats. Recently, Consumer Beats received an award of merit for achievement in the field of external communications from the Ontario Government Information Officers' Forum. A complement to Consumer Beats is a package of information in the form of prewritten radio scripts that are sent monthly to Ontario radio stations. A recent survey of the stations indicated 80 per cent make use of these radio consumer tips.

I should also mention the ministry's ongoing efforts to make services and information available to consumers in French. We continue the process of translating and printing bilingual forms used by the public. We have also made additional consumer awareness brochures available in French and offer translated versions of

consumer information to French-language media.

The ministry has also translated into French the very successful Consumers: Start Young storybook and teachers' manual, and extended its financial support of the TVOntario French-language consumer awareness program C'est ton Droit.

Obviously, from the sheer volume of contact consumers have with my ministry, it is imperative that we constantly monitor and be prepared to act on the vast range of issues before us. Where information alone is not enough, we often become involved as mediator. Beyond that, we stand prepared to carry out professional investigations and to lay charges where necessary.

17:20

I would like to turn briefly to the ministry's activities regarding human resources. I am pleased to report that the Ministry of Consumer and Commercial Relations continues to achieve positive results in the area of affirmative action. The wage gap between our male and female staff continues to narrow at a noticeable rate and female representation has increased in under-represented occupational groups.

For example, before the ministry was split into two parts, it experienced a 3.2 per cent increase in the number of women in its executive compensation plan over the last fiscal year. Fully 44.5 per cent of the ministry's managers in the administrative module are women, up 1.6 per cent from fiscal 1984-85.

Three of the five most senior positions reporting directly to my new deputy minister Val Gibbons, on my left, are now filled by women. I refer to the executive director of support services, the executive director of the business practices division and the director of policy and planning.

The ministry's accelerated career development program continues to open up new opportunities within the ministry, and management and supervisory courses offered by the personnel branch have proven to be an effective instrument in career enhancement.

At this point, I would remind the new members of the committee that the Residential Tenancy Commission was switched from its traditional home at my ministry to the Ministry of Housing last year.

As noted at the beginning of my remarks, the recently created Ministry of Financial Institutions now houses several areas that formerly came under the mandate of the Ministry of Consumer and Commercial Relations. A great deal of activity has taken place in those areas during the past year but I will wait until I don my Minister of Financial Institutions cap before having that discussion.

This brings to a close my introductory remarks. In these comments I have attempted to present a sampling of my ministry's accomplishments, plans and concerns. As I said previously, economic conditions, changing markets and new technological developments have underscored the need for my ministry to continually review its approach to both business regulation and consumer protection. We are fortunate in this province; the vast majority of business people are honest and hardworking. That is the kind of commercial environment I know we all want to keep.

Mr. Chairman: I know there will be responses to the minister's statement but, by agreement, they will not take place today. I thank all of you for making yourselves available on very short notice for this meeting so that we could get under way with the estimates.

There will be a total of eight hours in the estimates–

Interjection.

Mr. Chairman: Eight hours. You wanted to increase that? I am sure the minister would be more than happy to increase that to 12 or 14 hours but we will not negotiate that now. That has already been settled, I would think.

On Monday, we will resume discussion of Bill 105 as a result of the decisions we made today, assuming we do not have any further direction from our respective House leaders. I will advise the members of the committee who are substituting today when we will get back to the estimates, knowing the minister cannot be here on Monday. We will reschedule the estimates for the earliest opportunity.

Are there any additional matters to be brought before the committee?

Mr. Swart: At some point we should endeavour to put some order into the discussions that are going to take place. I have found from experience when we had many more hours, although then it was a unified ministry, we never got time to deal with all the items people wanted to deal with. It seems to me that perhaps the critics and the Liberals, although they do not have a critic, could co-ordinate it so that we could divide the time of the estimates into the areas we feel should have priority.

When we come back for the estimates, I would be willing to have some suggestions as far as our party is concerned. Obviously, one party, or

certain members within a party, may have a difference of opinion on where we should be spending our time. Therefore, it is best to go over it ahead of time rather than getting a third of the way through the estimates and finding we have run out of time while there are items left that people want to discuss.

Mr. Chairman: That point is well taken. I would like to suggest that I will try to balance the time in an equitable way among the parties, as fairly as is possible. If the respective critics want to quarterback any of the other submissions from other members of their parties–by quarterback, I mean give them an indication of time allocations –that would be of great benefit to the chair. Mr. Swart's comments are well made and it is a question of whether it can be worked out with all groups, but we will try to balance the time. I will not allow one party to dominate the eight hours. We want everyone to have a fair and equitable chance to discuss these matters in depth with the ministry.

Mr. Swart: I am not sure I made myself clear. I agree with the equitable time. We all agree with that, difficult as it is some times, but I am thinking more of the items of interest they want to discuss. Somebody may want to discuss the Liquor Control Board of Ontario or the Liquor Licence Board of Ontario. We can set apart an hour for that. Somebody else may want to discuss the registry office; I do not know. We should have discussion on that.

Mr. Chairman: I am concerned about the members who, in some of the more interesting ministries, come into the room as substitutes, perhaps because they have one or two issues that may affect them in their own riding or are matters of interest to them, and take over and dominate the meeting for a lengthy period while the regular members sit quietly and patiently waiting for the discussion to end. I would like to see whether all parties could not agree to balance that off a little as well, because it is not unusual for that to happen during the course of committee discussions, as you know.

Mr. Swart: Yes. I would agree with that. That is one of the reasons I propose it. Normally the critic can quarterback it and then you can prevent that to some extent. I realize nothing is perfect, but we should have divisions of time in the various votes.

Mr. Chairman: I will take a quasi Solomon-like approach, whatever that means.

The committee adjourned at 5:26 p.m.

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Tuesday, December 2, 1986

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Witness:

From the Ministry of Consumer and Commercial Relations:

Kwinter, Hon. M., Minister of Consumer and Commercial Relations and Minister of Financial Institutions (Wilson Heights L)

Ontario

No. J-2

Hansard
Official Report of Debates
Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Second Session, 33rd Parliament

Tuesday, December 9, 1986

Speaker: Honourable H. A. Edighoffer

Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, December 9, 1986

The committee met at 4:07 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Members of the committee, we are starting a bit late. I would like to get under way because of the time we still have to complete with respect to the estimates of the Ministry of Consumer and Commercial Relations. As members of the committee realize, at the previous meeting we proceeded with the minister's statement. He completed that statement. Then we had to adjourn on account of other commitments.

This afternoon it is my intention to allow the opposition critics to speak to the minister's statement and specifically to that ministry. I will start with Mr. Runciman, the critic for the Progressive Conservative Party, followed by Mr. Swart, who has his hand up. I will recognize Mr. Swart in just one moment. He will be the second speaker on the matter. I will now recognize him.

Mr. Swart: On two points of order, Mr. Chairman: First, as I mentioned to you privately, I do have a commitment; I have to leave at 5:30 p.m. I am not sure whether the committee wants to adjourn at that time. I am not suggesting it should.

Mr. Chairman: As the chairman, to whom you passed this comment, I want you to know that I immediately, at the time I received word from you, went to Mr. Runciman and to the minister. There was absolutely no time lost whatever in my lunging forward and going to these two gentlemen. I have total concurrence that you can leave here at 5:29 p.m. How much more can you ask?

Mr. Swart: Thank you. Others are always happy to concur that I should leave too.

Mr. Chairman: Some suggest that you leave even earlier; I did not want to suggest that.

Mr. Swart: I also want to say that I realize that the critics, and even the chairman, do not control the committee; it is the committee members who do so. Therefore, I wanted to bring this matter forward at this time.

Second, this may be something we want to discuss. After we have the lead-in from the critics, there is the matter of division of time into various areas. Certain members may want concentration. Perhaps we should have some discussion about that. That perhaps can come after the lead-in statements. I leave that in your hands.

Mr. Chairman: Again, Mr. Swart, I indicated to you that I would attempt to allocate the time as equitably as possible.

Second, we will try to keep the discussions centred on the major topics to the extent that we can. Occasionally, what may be a major topic for one member may be a relatively minor one for another. I cannot assure you that all the topics one develops as a priority in one's mind will be the ones that come to the fore. We will try to associate ourselves as much with your thoughts as we possibly can.

That said, unless there are any other opening comments, I will go to Mr. Runciman.

Mr. Runciman: I will present an overview of some of the specific concerns I have regarding various responsibilities falling under the Ministry of Consumer and Commercial Relations. Several of these concerns have not been properly addressed by the ministry, and it is through the estimates process that my colleagues and I intend to determine why this is so. During my remarks I will also be making reference to comments presented to the committee by the minister in his opening statement.

At the outset I would like to compliment the government on its decision to accept the general thrust of the Dupré committee. Although it did not specifically recommend the creation of a separate ministry, I have no doubt that the move will pay dividends in the future.

However, I have some reservations about one minister assuming responsibility for both ministries and about the sharing of staff, office quarters, etc. It is an arrangement that may turn out to be quite feasible and effective, but in my view, it inevitably diminishes the influence of the minister in the executive council.

In any event, we all appreciate the realities of the current situation and the shortage of numbers and of talent faced by the current government. It is a concern I want placed on the record.

Early in the minister's statement he made reference to the business practices division. I want to make a couple of comments on this area of the ministry. The first concerns your inaction in respect to the problems of the fitness industry. Back in May 1985 the ministry was developing a policy to deal with prepaid schemes in the industry. In March 1986 you suggested you were going to amend the Consumer Protection Act to deal with this situation. A couple of months ago you told me you had it in hand, and what do we have today? Absolutely zilch. While you continue to dither, consumers continue to pay through the nose.

In October a health club in Windsor known as the Maximum Fitness Centre closed its doors without a word of warning. The club members discovered a large padlock on the door of their club and a handwritten sign saying, "Closed." Some of these people had paid their memberships only a day before the club closed. There is no restitution for these people; it is money down the drain. I trust the minister will provide the committee with his justification for delaying action on this problem for about a year and a half.

I also note the minister's extensive back-slapping in respect to the inauguration of the Ontario motor vehicle arbitration plan. The minister is fond of pointing out that yours truly spent only five and a half weeks as the Minister of Consumer and Commercial Relations. However, during that admittedly brief tenure I introduced at least two of the initiatives the minister is boasting about in his statement, and one of them was OMVAP. I think my batting average would have to be considered to be much higher than the minister's. After my announcement of OMVAP in June 1985, the current minister took 15 months to get around to reannouncing essentially the same program.

In his opening remarks the minister said the Ministry of Consumer and Commercial Relations has been charting new waters through the introduction of OMVAP. It should be clear on the record that the previous government and previous ministers provided him with the boat to sail in, the maps to read and all the guidance and assistance necessary to chart his so-called waters. The only thing we did not provide was alcoholic beverages.

Before we get away from consumer protection and automobile purchases, I would advise the minister that we in our party would like to know what he is doing, if anything, in respect to his year-old promise to bring in legislation covering used-car purchases and to protect motorists on car repairs.

I will make a few more brief comments related to an area falling under business practices. We were somewhat pleased to hear news reports this morning that the minister is again planning action in the area of new home construction. Apparently, according to a response the minister made in the House today, he is not talking about the new home warranty program. We in our party believe the mandate for this program should be expanded by increasing monetary limits beyond $20,000, which was set in 1974, to at least $50,000; by providing more teeth to deal with uncompleted work; by requiring a scheme on holdbacks—there is no protection now—and by penalizing builders for not registering new houses.

Some other areas that we think should be looked at are the institution of a cooling-off period. The Condominium Act gives a 10-day period to rescind a transaction. Why not have a similar time for the new home buyer? Better disclosure is another area that merits consideration. A la carte changes can exceed actual costs, and the agreement should be clear and precise. All prices should be listed. I could go on and on in this area, but suffice it to say that we will be looking forward to the minister's comments on this area of concern.

I will move on to talk a little bit about booze and booze regulations. At the outset I would like to set the record straight in respect to the minister's earlier implication that the introduction of brewpubs to Ontario was an accomplishment of his government. In fact, the legislation of brewpubs occurred during the Miller months, not Monte's months.

In his statement, the minister made reference to the Royal Commission of Inquiry into the Testing and Marketing of Liquor in Ontario. I was pleased to see that he made reference to substances that could prove a health hazard if consumed over a lifetime. That is an important qualifier and one the minister neglected to emphasize when, just before Christmas last year, he made one of his infamous off-the-cuff comments related to the ethyl carbamate problem. As we all know, he retracted his comments the following day, but the damage had already been done.

As a point of interest, the minister should be aware that there is more ethyl carbamate in a doughnut than there is in a bottle of wine. I hope that does not prompt another royal commission.

With respect to the minister's advisory committee on liquor regulation, it would be interest-

ing to know how many public submissions were made to the committee and what the total cost to the taxpayers will be for carrying out essentially an unnecessary exercise. It will also be interesting to note how different, if at all, the committee's recommendations will be from regulatory-change recommendations available to you more than a year ago from former chairman of the Liquor Licence Board of Ontario, Willis Blair.

When the new liquor licence board chairman, Douglas Drinkwalter, assumed office, he was quoted in a Toronto Sun interview as saying, "There is a perception out there the LLBO is crooked." He also said his mandate from Mr. Kwinter was simple: "Kwinter said: 'Here are the allegations. If the organization is corrupt, clean it out.'"

That is pretty serious stuff. During the course of the estimates, I intend to pursue this matter with the minister and with Mr. Drinkwalter. Through their comments they have both cast aspersions on former chairman Willis Blair, former board members and all the dedicated staff at the liquor licence board. If those allegations cannot be backed up–and we suspect that will be the case–I will be asking that the previously named individuals receive a public apology from the minister and the board chairman.

As well, more than a year ago I asked the minister to substantiate charges made by your leader that liquor inspectors were pressuring licensees to contribute to the Progressive Conservative Party. That comment was nothing less than a smear of all liquor inspectors and it deserves substantiation. I have not had any answers yet, and I will be looking for some.

16:20

Finally, in reference to the LLBO and the Liquor Control Board of Ontario, I would like to know what is happening in respect to making board employees civil servants and why you are proceeding in this direction.

I want to touch quickly on a number of subjects before I wrap up. I will address briefly a concern related to what some consider unfair business practices in the province's bereavement sector. The minister and the government are apparently allowing commercialized cemeteries to sell monuments to bereaved families, which is a clear violation of the law of Ontario.

The minister has had more than 17 months to do something about this, but to date, he has not taken appropriate steps to resolve the problem. I find it particularly interesting that the minister told this committee in his opening remarks last week, "We recognize we must deal with issues of immediate concern." Are we to draw the conclusion from this remark that the minister does not regard unfair business practices in the bereavement sector as being of immediate concern? Perhaps he should provide us with a list of the concerns he considers to be immediate so that we will clearly understand which issues he intends to resolve within a more reasonable and immediate time frame.

All the minister has done with this problem is to delegate his responsibility to investigate the matter to a civil servant, whose duty it is to make recommendations to him by September 1987. That is not how the minister should deal with this concern. It is one that demands immediate attention; it is not one that can wait another 10 months for the minister and his staff to prepare recommendations that could take even longer to implement.

The focus of the concern is this: The livelihood of a number of small business people in Ontario is now threatened because of unfair business practices. Conglomerates in the bereavement sector are breaking the law for their own purposes, and the minister is failing to act. As well, the minister already has at hand enough information to address this concern immediately through the use of an internal document completed for the ministry in 1984 by Thomas Turner.

I respectfully suggest to the minister that he review the very valid concerns of these small business people and move quickly to address those concerns. He has the information available to make the necessary decisions. The only thing he apparently lacks is the will.

The minister has gone into great detail about how much he has done to improve the system of classification of videotapes. He has expressed his pride in both the new video classification requirements and the industry licensing provisions. However, the idea of having stickers placed on videotapes for quick classification identification has been delayed for 17 months. This is certainly nothing to boast about. While we applaud the appointment of Anne Jones as chairman of the Ontario Film Review Board, we retain serious reservations about the long-term plans for this board.

The minister quite clearly believes in classification only. I assure him that any back-door efforts to diminish the board's censorship powers will be quickly challenged.

In his statement the minister addressed the concern of elevator safety and, more specifically, elevator joyriding. He has a committee

studying this issue. That is not surprising. This government has more committees than actual accomplishments to its credit. Studying the issue does not prevent accidents caused by elevators that are unsafe. How long does the minister plan to wait before implementing some measures that will ensure safety on elevators and effectively stop joyriding?

Another issue I want to address is that of drug testing by the Ontario Racing Commission. The practice began this fall at various racetracks where employees have been tested on a random basis. It resulted in a one-day walkout by exercise riders at Woodbine and Greenwood racetracks. The minister has not expressed a view on the racing commission's actions. Is he opposed to them? If he is, why has he not said so? Does he support them? If he does, will he implement such testing within his own ministry? If not, why not?

The Toronto Humane Society is also a subject of concern. I would like to know why the companies branch of the ministry has rejected requests from certain directors of the society to refuse to issue supplementary letters patent to the organization until such time as it has satisfied the minister as to the sufficiency of its application and documentation and as to the bona fides of the application.

Finally, I comment on the very attractive salaries the minister's staff appears to be receiving. The increase in ministerial salaries between 1984 and 1986 adds up to 29.9 per cent, a rather hefty increase. I look forward to the minister's justification of such a significant jump, which has occurred primarily during his tenure.

That summarizes some of the topics of concern I wish to address during this estimates process.

Mr. Swart: I may be somewhat longer in my comments than Mr. Runciman was. However, whatever time I use, I do not want to monopolize the time and I will be glad to ensure that the total time is divided equally.

Minister, I believe these are the first estimates in which you have participated since you have been the minister. You are fortunate or unfortunate, whichever way you look at it. Last year, we did not have time for your estimates. Therefore, in my opening remarks I want to deal somewhat with your statement and somewhat with the very real contrast in philosophy you and I have with regard to the responsibilities of your job.

I agree with the Conservative critic when he said there was wisdom in dividing it into two ministries. I do not have any particular objection to one minister handling it, except that I am sure the minister recognizes, as do we as opposition critics, that with the volume of issues dealt with it would seem that either ministry would be sufficient work for any one person.

I want to start by making a few complimentary remarks. I commend the minister for establishing the motor vehicle industry compensation fund. It will provide some real and needed protection for a person who purchases a new car or is about to purchase a new car from a company that collapses financially. I also compliment the minister for the travel industry fund, although it was set up by the previous government. The amendments that are being proposed are advantageous and the operation of the fund has been very sound. I also compliment the minister on his changes in appointments to the Liquor Licence Board of Ontario and the Liquor Control Board of Ontario. If the critic for the official opposition does not know the system that had proliferated over the past 42 years–

Mr. Runciman: I think I have heard this before.

Mr. Swart: –with regard to patronage within those two bodies and with regard to the almost exclusively Conservative appointments, then he is out of touch with the realities of that world for at least the latter part of those 42 years. I was not as closely associated with the early part.

The changes that have been made in those acts and in the Registry Act and the Land Titles Act will permit that patronage to be dispensed with, and given the minister's philosophy in this regard, I think it will be used to eliminate the patronage that has existed there more than in any other part of the government of this province.

From here on, what I say will be mostly downhill as far as complimentary remarks to the minister are concerned.

Hon. Mr. Kwinter: Fire away. I knew it was too good to last.

Mr. Haggerty: I hope he has insurance when he goes down that hill.

Mr. Swart: You may not know it, but insurance comes under the Ministry of Financial Institutions.

The Ontario Motor Vehicle Arbitration Plan has been improved slightly. It took a long time to get it there, but it has been improved slightly over what had been proposed by the then Conservative minister. However, it is still not adequate and still not fair. For instance, within that system a person who wants to have arbitration with the company with regard to faults in the car and have

the faults remedied still has to sign a waiver that he will not proceed with a lawsuit against the company, whether it is General Motors, Ford or whatever the case may be. They have to sign before the arbitration can even take place. In addition, the company does not have to produce records that would be of very real importance to anybody in the arbitration process.

We will have more to say about that when we get into those details.

16:30

The minister's foray into beer and wine in grocery stores and, for that matter, the Ontario Advisory Committee on Liquor Regulation were disasters. The first was a disaster not only with regard to the principle of it but also with regard to what took place when only slightly more than half of the members of the Liberal Party came into the House to vote in support of it.

With regard to the Ontario Advisory Committee on Liquor Regulation, I did not have any objection to a committee travelling the province to hear from the public on this, but surely you should have had the semblance of an independent committee with representation from the public and perhaps even from all parties of the Legislature. To appoint your parliamentary assistant to it and to put in representatives of the Liquor Licence Board of Ontario and the Liquor Control Board of Ontario as the majority of the other people on it will bring in the kind of report you want and not necessarily what the public of this province wants.

Most of all, I am concerned about what was omitted in the responsibilities of your ministry. Knowing your philosophical beliefs, I am convinced the omission is deliberate and reflects a view with which I am in total disagreement.

Last week, on page 1 of your statement, you said, "The basic purpose of the ministry is to serve consumers and the business community by actively promoting an honest, equitable and safe marketplace"–nobody disputes that–"and by fostering better relations between business and consumers." This is desirable as well. You go on to say, "We pursue this goal by endeavouring to promote sound business practices; by facilitating economic growth and development in Ontario; by informing and assisting consumers and promoting their interests in the marketplace; and by developing new and creative methods of fostering better consumer and commercial relations." Then, on page 2, you deal a little further with the philosophy. You say, "There is an understanding that consumers should have a choice of goods, services and availability in the marketplace."

That sums up the consumer side of your ministry. I must point out that what is omitted from that statement, and what seems to me so essential to the responsibility of any consumer minister, is that it should include a competitive marketplace and fair prices. It seems to me that a major obligation of the Minister of Consumer and Commercial Relations is to ensure a competitive marketplace and fair prices.

I suggest it is missing because you do not really believe in it and your action or lack of action in many areas bears this out. You believe in the private sector determining prices on its own without government intervention, whether or not there is real competition to control it. You have no concern about massive concentration and about the move in many areas of economic operation to eliminate competition. It is this philosophy of yours as minister that I want to address.

I suggest that the recent book by Diane Francis, Controlling Interest: Who Owns Canada, should be compulsory reading for you, and for that matter, for the federal Minister of Consumer and Corporate Affairs.

Let me quote from that book as to what is taking place in this nation. This is what Diane Francis has to say:

"Even businesspeople are beginning to be alarmed about the degree of concentration in Canada. 'In a number of years, there will be six groups running this country,' warns Bernie Ghert, president of Cadillac Fairview Corp., the country's second-largest development company."

Later she writes, "Unbridled, concentration forces Canadians to overpay for many goods and services, removes job opportunities, hurts small investors, taxes the poor to help the rich, weakens our competitive system as a trading nation and ultimately threatens our democratic process.

She goes on: "Concentration has become so significant that the country is hurtling towards a new form of economic and political feudalism, a 20th century version of Upper Canada's Family Compact back in the 1800s." I point out to the minister that this is not some radical, socialist or communist who is making this statement; she is a very reputable reporter for the Toronto Star.

"By far the most heated competition in Canada has been to buy the fiefdoms themselves, as conglomerates and families spent most of the 1970s borrowing millions against what they

already owned to acquire more. At the last count by federal officials, some 4,685 takeovers had been made between 1974 and 1984, compared with 3,460 significantly smaller takeovers in the 10 previous years. The concentration continues, hurtling us towards an even more closely held economic oligarchy than already exists. Tragically, the issues do not have top political priority"–this is certainly true with you, minister–"even though controlling interest in the entire country is at stake, and so are political freedoms."

She continues: "In the absence of rules, ours has been a financial system fashioned after our national sport of hockey, but without referees or penalty boxes. Unchecked, free-enterprisers have destroyed their own system, mopping up all opportunities and pushing political leaders towards socialist alternatives. Unbridled, free enterprise devours its young as surely as an unofficiated hockey game sidelines the most talented players in the game."

I suggest this is the important part: "The US government jealously guards competition, a cornerstone of capitalism. When Texaco's parent company took over Getty Oil in 1984, the US marketplace watchdog, the Federal Trade Commission, forced Texaco to sell off much of its wholesale and refinery operations in New England, because the takeover had resulted in four firms controlling 70 per cent of the market. When Gulf was taken over by Chevron in 1985, the commission ordered Chevron to divest several thousand gasoline stations and several refineries in certain regions because of concentration levels. Whether in oil or in other industries, what is intolerable in the US is the norm in Canada."

I could go on with all kinds of similar quotes. It may seem to some a bit unusual that I am here defending the competitive system but you must know, minster, as I know, that there are only two ways of controlling prices and the quality of goods, etc. for the public of this province. One is through the competitive process and the other is through government intervention if the competitive process is not there.

I am not one who objects to government intervention when it is needed, but I am one who says that for as long as this economy exists, we should ensure that competition is the factor that controls the major part of the economy. This is something you have totally ignored and you seem at this point to have no interest in it whatsoever.

I took a clipping from this morning's Toronto Star which you have probably seen. The headline is, "Wilson Said Eyeing Financial Empire Limits." I quote from this article:

"There's fierce debate among members of a federal cabinet committee over sweeping new proposals by Finance Minister Michael Wilson that could unravel some of the largest financial empires in the country, the Star has learned."

"The proposals would restrict tycoons from controlling companies with financial or money-lending operations if they also control nonfinancial corporate operations that borrow money."

"The proposed new rules would force nonfinancial companies to divest their financial holdings down to 30 per cent in an insurance or trust company or combination of both, depending on size."

16:40

"The proposals are contained in a white paper, or 'statement of intent,' which would dramatically alter the ownership of financial institutions such as banks, trust companies and insurers in Canada.

" 'The wisdom of 30 per cent is that it becomes tough for these conglomerates to control financial institutions with that percentage.' "

Later it states: "Ontario last week opened up the brokerage business, but didn't restrict cross-ownership of financial assets by nonfinancial entities.

" 'I've seen these proposals,' said Ontario Consumer Minister Monte Kwinter when asked about Wilson and Hockin's cross-ownership restrictions. 'The federal government wants to go the ownership route by restricting cross-ownership, but I don't think that they can deliver because of the pressures.

" 'We have gone a different route,' he said. 'We don't care who owns you. We will have very strict self-dealing and conflict-of-interest guidelines.' "

I presume that is descriptive of your philosophy, Minister. "We don't care who owns you." We do not care who owns a financial institution or if one person owns 100 per cent of the financial institutions. That really does not matter to you.

I suggest we have had all kinds of problems in our society already because of monopoly ownership or ownership that was not widely held. With the degree of it in this nation, we cannot police it by using one regulatory method. We have to use both. We have to stop the dominant ownership or the total ownership of massive financial corporations and other corporations by one person with all kinds of other connections in the economy and in our society. They can shift all these things

around to benefit themselves, and as was done at Goodyear, destroy jobs for some 1,500 people.

I feel much more confident in using both and our party will endeavour to see that you do use both when you bring in those regulations. We have another example of this attitude–your attitude in this regard–with your statement on entry into ownership of the Canadian securities industry. You are opening it up wide and allowing 100 cent ownership. I remind you that when Mr. Ouellet was federal Minister of Consumer and Corporate Affairs, he stated and proved that Canada had the highest degree of concentration of corporate ownership of any democracy in the world, far higher than in any other democracy. He endeavoured to strengthen the competition legislation, but because of extreme pressure from these very same groups, these highly concentrated groups, he was not successful in accomplishing that. The people of this province are paying the price.

In your case, and perhaps at this time in the case of the federal Minister of Consumer and Corporate Affairs, it is full speed ahead on this concentration, and the public be damned. For that matter, the committee of the Ontario government that now is sitting on the matter of corporate concentration, an all-party committee, be damned too.

It was pointed out not only by our leader but also by the Conservatives in the House just the other day that you bring in this new proposal with regard to ownership of the Canadian securities industry before this committee has even reported. If you wanted us to believe you had any concern about this concentration, about control of the economy in a few hands and about the lack of competition, you would not have gone about it in that manner, destroying any faith we might have had in that regard.

The whole matter of slavish support of the massive corporations in our society was shown up by a letter that was read in the House. It was dated February 24. You sent it to Joseph Warner regarding the tremendous controversy that is going on at the federal level now with regard to drugs, the price of drugs and whether the drug patent owners should be given longer than four years' protection after they develop a new drug.

You said in that letter to Mr. Warner–and I realize that in the House you could not give an answer to it, although I gathered perhaps you intended to say you had made a mistake in sending it out. I am not sure what it was.

Hon. Mr. Kwinter: I hope you are going to read the second letter as well.

Mr. Swart: I know you have changed your position since this letter went out. You have changed your position under public pressure, but your letter, your initial reaction–

Hon. Mr. Kwinter: Are you quoting from Hansard of last year on wine and beer?

Mr. Swart: I use this only as an example.

You stated, "In response to your letter dated February 11, 1986, regarding changes to the Patent Act, it seems only fair that research-based companies in the pharmaceutical industry who spend large amounts of money for research in developing new drugs should be able to recoup their moneys through patent protection for at least 12 years."

That was apparently your initial reaction, your gut reaction to this matter. You would protect them even though your own Minister of Health (Mr. Elston) indicates it will cost this province tens of millions of dollars extra on the drug plan because of the proposed legislation of the federal government, which does not go as far as you propose in this letter.

I want to give some further examples of your lack of concern about concentration and about unreasonable prices to the consumers of this province. I want to use the oil industry again as an example.

You will recall early last spring when this matter was raised in the House with you. The floor went out from under the crude price; it dropped from almost US$30 a barrel down to US$12 a barrel. You made some statements in the House to the effect that you did not think it was fair. I have quotes here. I will not read all of them. You made the statement, "My concern is, they say the price of oil has gone up"; then you talk about the oil companies and cheap inventories running low. That does not square with what they said before.

The Premier (Mr. Peterson) stated in March that he believed prices were artificially high and were hurting the province's economy. There was all kinds of evidence on the part of this government, you and the Premier thinking the oil companies were not being fair with the consumers of this province.

We even had admission by the oil companies that they increased their prices or did not bring prices down as they should have with the lower prices. You will recall an article on Shell, which starts by saying, "'Shell Canada Ltd. will not bow to pressure from consumers to pass on the full benefit of the plunging crude oil prices,' Shell President Jack MacLeod says."

Then we have the surprising statement by the president of BP, who said at that time, when the price of standard gasoline was 32.9 cents: "'Ontario motorists should be paying only 35 to 40 cents per litre for gasoline,' said the president of BP Canada Ltd. 'Considering what refiners are paying Alberta producers, there is no justification for an Ontario service-station price above 40 cents per litre.'"

We had all that evidence, and what was your answer when it was raised in the House over and over again? Your answer was that you could not do anything about it, because you did not have the power. You said this so often that you even led the Premier astray. He got up and reiterated that he did not have the power, that it was the federal government that had the power and you could not do anything about it.

16:50

After we had laboured away at this several times in the House, the Premier finally got up and almost apologized to the House. He said back on April 29, and I quote:

"I probably inadvertently misled people through my own lack of knowledge about our power. We do not have the legislation in place, but we could pass legislation. I want to clear up any mistakes I have made in that regard. I apologize for that."

The government did have power that it could have used. It could have passed legislation to implement consumer protection. When his party was in opposition, the former leader and now Treasurer (Mr. Nixon) said it should be done. The Conservatives did take some action, at least for a short time, to prevent the gasoline and oil companies from increasing the price to the consumer because the wholesale price went up back in 1975.

When that was first in the House, does the minister know what the now Treasurer said? At that time I really believed Mr. Nixon meant it when he said, and I quote, "Both now and in the future, the energy board will have the powers to carry on a continuing review of energy prices and be able to make recommendations to the government that only those increases which are justified are actually going to come about in this province." That was said by the man who is now Treasurer. Yet he flatly refused, even though the Premier admitted his government had the power, to do any intervening whatsoever on behalf of the people of Ontario to protect them against prices that you and the Premier had said were unfair. There is no sincerity in wanting to intervene on those kinds of things.

Back in August of this year, Suncor, the company in which the government has a 25 per cent interest, was fined $200,000 for trying to fix the price of gasoline. I wonder whether you remember what the federal prosecutor told the court, and I quote: "As surely and directly as if it had reached into their pockets and taken their wallets, the company had stolen money from the people." The prosecutor said this was the company that was supposed to be the window of the Ontario government. I suggest to the minister that his government, to a very large extent like the government before, wanted a window that had opaque glass so that it would not know what was going on; and even if it did find out, it did not want to do anything about it.

I will also use the example of the minister's action, and in one respect perhaps lack of action, in assuring competition in the insurance industry. I will raise the question of A. L. Williams with him. This company had a licence to operate here, and it wanted to bring in a program it had in the United States that would sell renewable term insurance.

Anybody who has done a study of insurance realizes that for most people, renewable term rather than a 20-year endowment is the type of insurance that people should buy. This company wanted to sell through part-time agents, mostly women, as you well know. I do not have to tell the minister any of the details of this. It wanted to license part-time agents in Ontario to sell that insurance. It was quite willing to give the necessary training so that these part-time agents would get their licences, but you refused that to them. You refused to issue licences for those part-time agents. As you well know, the court then ordered you to issue those licences.

Then what did you do? You passed a new regulation prohibiting part-time agents in Ontario. It certainly is a unique approach to prohibit anybody from working unless he works full-time. In a democracy, that is something I really have not heard of before. Are we going to do that with doctors? Should we have stopped Mr. Elgie, when he was both a lawyer and a doctor, from practising either one because he was not doing them both full-time?

That was not the reason you did not want part-time agents. You wanted to stop A. L. Williams from selling insurance in competition with the mammoth insurance companies we have at present. It had nothing to do with pyramid selling. Some people thought perhaps A. L. Williams had some pyramid process. It had

nothing to do with that, because the legislation enacted had nothing to do with that.

It had nothing to do with unqualified sales people, because they would have had to pass the examinations. It really had nothing to do with part-timers. It had nothing to do with consumers, because consumers probably would have been better off–and we should let consumers decide that–if A. L. Williams had been given the authority to go ahead.

It had everything to do with protecting the insurance companies against competition from A. L. Williams. That is what it had everything to do with. It really was quite a vicious and discriminatory regulation that you brought in to accomplish that. It did not go through the House; it did not go through the Legislature. You just brought in a regulation to accomplish that.

In the same vein, I want to raise the issue of the brokerage of the life insurance agents. You have taken the same stand, an anti-competitive position with regard to the life insurance business in this province. You prohibit life insurance brokers–really, the brokerage of life insurance.

We have a law requiring life insurance agents to be sponsored by one company. After two years, if they wish, they can send a client to another company, but they must get permission from the first company to do so. The minister knows all this; I am not telling him any new details.

Back in 1982 the previous government of this province, to its credit, suggested that this was perhaps unrealistic and limited competition; therefore, it would provide blankets. It was okay to have blanket permission from the sponsoring insurance company, if agents could get it, to sell for many other companies–in fact, brokerage.

What did you do when you became minister? You sent out a letter more than a year ago, in November. I will give you the exact date: It was November 7, 1985. In this letter you said you were going to reverse that. It was sent out by your superintendent of insurance. You must have known about it. Listen to what the letter says:

"It has come to my attention that some life insurance agents, with the acquiescence of their sponsors, are ignoring subsection 346(13) of the Insurance Act by failing to obtain the written consent of their sponsors in each case when arranging insurance with another insurer.

"Subsection 346(13) of the Insurance Act states: 'No life insurance agent shall be licensed to act as agent for more than one insurer transacting life insurance, and the name of such insurer shall be specified in the licence, and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer, but where such an agent is unable to negotiate insurance on behalf of an applicant for insurance with the insurer for which he is the authorized agent, such agent has the right to procure such insurance from another insurer if such other insurer obtains in each case the consent in writing of the insurer for which such agent is the authorized agent, and files a copy of such consent with the superintendent.'"

That is a quote from the section. I quote your letter again:

"Effective immediately, the written consent of the sponsor must be obtained and filed with this office or with a designated representative as set out below in each case where an insurance agent arranges insurance with another insurer. A blanket consent is not acceptable. Failure to comply with this requirement may result in disciplinary action being instituted or charges being laid in provincial offences court or both."

You moved backwards from where the other government was, even though we are the last province in Canada to have this kind of antiquated legislation, which almost makes a slave of insurance agents, in an era in this province when we now have computers and in a few minutes a broker can find out for you the rates of 50 different companies. Every member of this Legislature knows that they did exactly that and gave us a computer printout which showed that, with some insurance companies, rates were double what those of other insurance companies were. Yet you have effectively prevented them and turned the clock back so that they cannot proceed with this new technology and with giving consumers the best deal in insurance.

17:00

It is a massive regressive step. It was not done to help the agents. They are almost slaves. It was not done to help consumers, for sure. The Consumers' Association of Canada said it wants the brokering of life insurance. It is done to protect the giant life insurance companies, such as London Life and those few big ones. The smaller insurance companies want this kind of brokering.

You made proposals, as you know, back on March 14, to make certain changes, but you still require a certificate from the sponsoring company. You require three years with one company before they can do this, and if after two and a half years the company fires them, they have to go to

another company after that. Your proposal was totally unsatisfactory to those insurance agents.

I suggest to you that when a whole new technical age of computers and insurance brokers can determine in a few minutes the best deal for consumers, if we are concerned about consumers, we should have the brokering of insurance. You must know that, and yet you refuse this type of competition. I suggest that you are not a servant of the consumers in this; you are a servant of the large insurance corporations.

I want to raise with you in perhaps a little bit more detail a matter that was raised by the critic for the Conservative Party, and that is your indifference to the continuing competition in the bereavement industry. I am sure you must know that there is a fast-developing trend in the bereavement industry not only of horizontal integration but of vertical integration as well.

Many of the funeral homes are being bought up by chains. Large chains now dominate the cemetery business. You know all of that. The private cemetery corporations are moving into the provision of memorials. There is a whole new aggressive approach to the bereavement sector, a kind of approach with distasteful sales tactics.

As you know, numbers of funeral parlours in Hamilton were charged under federal anti-combines legislation, and one of those is Arbor Capital Resources Inc. It may have changed its name by this time; I am not sure. It owns 50 cemeteries through its wholly owned subsidiary Memorial Gardens.

I want to point out, in case you do not know and to ensure that you do, the kind of tactics that are used. That same company now has launched a lawsuit against the Ontario Monument Builders Association for $5 million–I believe that is what the figure is; I may be wrong on this–because of a press conference it held. You and I know it had little to do with a press conference; it had everything to do with intimidation of that organization, which is prepared to stand up and fight these giant semimonopolies in the bereavement industry.

Consumer groups and independent monument builders, funeral directors and cemetery operators are concerned about this concentration. The senior citizens are concerned about it. In their paper they have asked you, and I believe they have written you directly, to intervene and prevent this kind of concentration. As with all other matters of monopolistic control, you seem to have no concern and you certainly will not intervene.

You will not enforce your own regulation under the Funeral Services Act that states, "No funeral service establishment should be contained in or on the ground of a cemetery, columbarium, crematorium or mausoleum, or be operated in connection therewith." That regulation is still on the law books of this province. It may be vague. I might admit that if one took it to court it is vague enough that one might not be able to win the case. That is not the issue. If you were really concerned about preventing this integration, you could easily amend that. You would not have any trouble from us or from the Conservatives in bringing in legislation to amend that regulation so it would hold up in court, but you have taken no action on that.

You will not reverse regulation 81 of the Cemeteries Act which I believe was initiated by the Tories some 25 years ago to prevent the selling of monuments and other supplies by a cemetery corporation. That should certainly be prohibited by the commercial cemeteries.

You will not release the study that was done by your own investigator, Tom Turner. I hope you reply to this, minister. After all, we have listened in the House for almost a year and a half to a government that says: "We believe in openness. We believe in freedom of information." Where is the report Tom Turner made on the operations of the commercial cemeteries in this province? Why can I not see it as a member of this Legislature? Why can that document not be made public? Why are you holding it back? If it is not because you are afraid there will be things in there damaging to your friends at commercial cemeteries, you will bring it to this committee next week and let all of us see it.

I suggest to you that report contains comments that commercial cemeteries are not operating in the public interest, that some of their methods border on the deceptive and are unfair as defined by your ministry. I would like to know whether that is in Tom Turner's report. It should be released.

You are quite content to see conglomerates gobble up the monument business and all sections of the bereavement industry to eliminate competition and ultimately to hold the consumers to ransom. Your slogan in referring to this is, "Small is not necessarily good, and big is not necessarily bad." When competition is reduced and you exercise no control over policy or prices, that is necessarily bad. You ought to be ensuring by legislation that it is stopped and reversed, particularly the vertical integration over which you have control if you want to use it. That was

the original intention of the Cemeteries Act and other legislation in the bereavement field.

I asked you these things in my letter of three months ago. To the best of my knowledge, and I apologize if I am wrong, I have not yet received a reply to that letter. What the Ontario Monument Builders Association has asked you is basically reasonable. Of course, the monument builders have a vested interest in this. I would be the first to admit it, but I suggest that their interest, which is to keep competition, is also the interest of the consumers of this province and you should act on the request that they and many others have made of you in this regard.

17:10

I want to deal with another matter before I conclude.

In the opening comments I made there were comments contained in the book by Diane Francis. There was a statement about the efforts made in the United States, which is somewhat comparable to Canada as a country and which still prides itself as a totally open, free-enterprise system. You would say, Minister, and probably the chairman would say, that they have never had the terrible situation of having a democratic socialist government. It may be well to point out that many of those countries throughout the world now have passed this nation in average standard of living. The United States and Canada were first and second for more than 40 or 50 years. It is the international bank that says this and not us. However, I will not get into that today.

Mr. Chairman: You are becoming quite provocative. I know you did not do that intentionally. Back to the estimates.

Mr. Swart: Back to the issue of corporate concentration and the assurance of fair prices for consumers.

The minister must recognize that the United States has done much more to ensure competition–granted it is a larger country–than we have done here. It has also done much more to ensure that in areas where competition does not exist and sometimes cannot exist, such as public utilities, the consumers are given adequate protection.

Only 11 years ago, New Jersey, the first state to do so in the United States, initiated the office of a public advocate, a consumers' ombudsman. That now has spread to more than 35 states in the United States. Minister, if you are really concerned, and I have seen no evidence of it up to this time, that people in this province should have fair prices for natural gas, telephone and hydro, then I suggest you look at the public advocate system in the US.

For a number of years, I have obtained the report of the public advocate's office in the state of New Jersey, which was the first state to implement this. As you may or may not know, they deal with a lot more than just ensuring fair prices. They also deal in all kinds of consumers' advocacy. For instance, they would be involved in such things as whether a waste disposal site should be located at the present location in the Niagara Peninsula. They would take that and fight on behalf of the citizens of that area. They do advocacy work for all kinds of individuals with regard to courts and so on, but a major section is the rate section.

In this province, when there is a hearing on Ontario Hydro rates, natural gas rates or Bell Canada rates, there is no equality in the presentation by the two sides. There cannot be. Bell Canada can spend $2 million to fight its case for rate increases. Who is aligned against them? The Consumers' Association of Canada has a budget of about $100,000 or $150,000 and cannot even have anybody at those hearings.

There are cases fought here before the Ontario Energy Board for Consumers' Gas or the other natural gas companies of the province. I have been to them. There is nobody there representing consumers. I went one day to represent the consumers. In the decision two years ago, they gave credit to myself and the New Democratic Party for bringing forward certain points. In their award, they mentioned rather extensively the contribution we made and the fact that their decision was based on our contribution.

There is nobody representing consumers, but Consumers' Gas has two, three, four or five lawyers and all kinds of experts. Where do the consumers get protection? Of course, they do not. That is one reason Consumers' Gas and the other natural gas companies in this province have never known there has been a depression in the past five years. They have always been able to maintain at least a 15 per cent return on equity. They have a guaranteed income and do not have to worry about competition in the market. They made a 15 per cent return on equity when other companies were making an average of about a six per cent return on equity, and many were going broke.

With the public advocate system in the US, if utilities want an increase in rates, they must apply to the government and then the public advocate takes over. The cost of that public advocate is not borne by the public through taxes.

It is borne by the companies that want the increase. They are assessed costs. The governments there say it is only fair. If the company is going to spend $1 million or $2 million on promoting its increase, then the consumers out who are going to have to pay should have the same right. Sure, the consumers end up paying both costs, but there is fairness.

I would like to give you a copy of this report and will do so at a later date. There is a chart here that shows the awards that have been requested and have not been given over a 10-year period. In every instance, the final rate set has been not more than 20 per cent of what was requested by those companies. They have changed the location of nuclear plants and a lot more.

Let me tell you what happened this year in New Jersey under the public advocate system. I have a list of the companies they fought on behalf of consumers. There are at least 25 of them. The requested increases by all these companies amounted to $759 million. The public advocate, who fought the case on behalf of consumers, said the total increases of all these companies should have been only $86 million. What was finally awarded was $193 million for all those companies, only one fifth of what they requested.

We need that kind of system in this province. We need a consumers' ombudsman to fight the battle for the consumers. It is not a cost. It is very successful in protecting consumers in the US.

I have an article I just picked up. It is dated July 12, 1986. It is from a Buffalo paper, "Consumer Board Suit Challenges Niagara-Mohawk Rate Increase." They had won a rate increase. The consumers' ombudsman decided they were not entitled to it. He took it to court on behalf of the people and was largely successful when it went to court. It was considered that the procedures had not been properly followed.

There is a lot more that needs to be done for the consumers. The minister has a major responsibility, recognizing that the federal government has primary responsibility for competition. In much of the legislation you deal with, you make decisions and recommendations to this Legislature with regard to matters that are concerned with competition and with concentration of industries. I have given you some examples.

I suggest that you seriously take a new look at your responsibilities. When you come back here next year to give a report, if you do come back here next year, then when you say the basic purpose of the ministry is to serve consumers and the business community by actively promoting an honest, equitable and safe marketplace, you might add the words, "and ensuring competition and fair prices."

17:20

Mr. Chairman: Thank you, Mr. Swart and Mr. Runciman, for your opening comments. The minister may want to make some brief response now. We have agreement from all parties that we are going to adjourn at 5:30 p.m. That being the case, it allows for something less than 15 minutes for the minister to make a few comments. Following that, depending what time is available, we can get into questions this evening if you wish, but my guess is we will not have a great deal of time. The minister may want specifically to make some comment with respect to Mr. Swart's presentation. There were some areas of your presentation, I say with due respect, that impinged on another ministry and are not contained within the estimates.

Mr. Swart: I am aware of that; I was surprised you did not cut me off.

Mr. Chairman: I did not cut you off because I wanted to show you how flexible and pragmatic the chair was. However, I did say to the minister, while you were in full flight on that issue, that we would perhaps have to shift that area of your presentation to another time. The ruling of the chair is that I do not anticipate requesting that the minister respond specifically to comments dealing with financial institutions. With respect, I thought I should point that out to you. The minister will respond to all other items of interest.

Mr. Swart: I have the same flexibility and accept your ruling.

Mr. D. R. Cooke: On a point of order, Mr. Chairman: Mr. Swart seemed to be suggesting that the minister had slighted the standing committee on finance and economic affairs by not awaiting its final report on corporate concentration. As chairman of that committee, I am not aware of any feeling of members of the committee that they have been slighted. We expect the minister to continue to operate from day to day and not necessarily await any final report.

Mr. Swart: I did not mean to imply that the committee felt slighted or was slighted. I think I implied that the minister was so indifferent to what the committee was doing that he just went ahead and brought in his recommendations, even though the committee was considering the same issues at the same time.

Mr. Chairman: If the minister is ready to make some comments now, I will turn the time over to him.

Hon. Mr. Kwinter: I would like to refer to the statements of the two critics in sequence and hit the highlights. Then we can follow up on them one at a time.

I would like to comment on the division of the ministries. The reason for the division was not that I needed two jobs; it was a decision to make sure financial institutions got the attention they deserved. In a ministry–certainly the Conservative critic will know this because he was in that position–that has responsibility for more than 75 different acts, there is a feeling of crisis management in that it is a ministry that has a lot of current issues and that is in the media every single day about some issue. It was felt, along with the recommendations made by Stefan Dupré, that for the financial institutions side of the ministry to get the attention it required, we should have a division.

The division took place at the ministry level and not at the level of the minister. I had responsibility before and after the division. That has not changed. I did not suddenly get all new responsibilities. I have exactly the same responsibilities. What has happened is that I now have under me two deputies and two distinct ministry staffs. There is an overlap on some of them, but it means that Ministry of Consumer and Commercial Relations people devote their time to issues of consumer and commercial relations and Ministry of Financial Institutions personnel devote their time to financial institutions. It makes for far better supervision of the 22 acts that fall under the Financial Institutions ministry. The other acts are regulated under Consumer and Commercial Relations.

It is a good move. At some time in the future, with a government that has many more elected members, I imagine there is a distinct possibility there could be two ministers handling those jobs. At present this is the way it is going. As the minister, I find I do not know any better, because I have never been exposed to it before. I can handle those responsibilities because they have not changed. It makes a difference below me because there is a division there. I just wanted to discuss that.

The next issue that was brought up was the prepaid services act. This area has caused us great concern and is something we have been looking at for some time. Hardly a week goes by that we do not hear of a health club in trouble somewhere in Ontario. We have been working with the industry. It is a difficult problem. It is difficult because there is not a defined grouping that belongs to a specific organization or that is a professional group requiring licensing or a membership. It is tough just to quantify the numbers.

That said, we are certainly working, and have been working for some time, to bring forward what we consider to be adequate legislation. I hope to introduce that very shortly. We have spent a great deal of time on it. We have worked with responsible people in the industry and with various concerned groups, and I expect we will be bringing that forward in the not-too-distant future.

The next item I want to deal with and follow up on is the analogy of my Progressive Conservative critic. He says the previous minister has provided me with the boat to sail in with the Ontario motor vehicle arbitration plan. When we got that boat, it was sinking with all hands on board, and I will tell you the problem. I am not in any way trying to denigrate the efforts of the previous government. It was an excellent idea, but somewhere in the translation–I do not know quite where it happened, because it happened before my time–the people in the ministry and the people in the industry had an idea of what the OMVAP was, and any similarity was purely coincidental.

I commend you for the plan. It is a good plan, but when we tried to implement it, we suddenly found the industry saying, "That is not what we agreed to." My ministry people were saying–you should also know we had a change in personnel, a change of the person who really negotiated that–"That was not our understanding of the deal." The industry was saying, "If that is your understanding of the deal, then count us out."

It took a lot of stroking and a lot of putting people back together again to get them to where they all agreed on what we were offering. I in no way apologize for the delay. I have no hesitation in commending the previous government for initiating it. Had we been able to implement it right away, we would have done so. I would be the first to applaud the fact that it was done, but I want members to know that we had a very serious problem because there seemed to be a difference of opinion on what they had agreed to, and we had to get them all back together again. It took a great deal of work.

I commend the people in my ministry for the diligence with which they pursued it and the diplomacy they used in resurrecting a plan that was going down the drain, and I mean it. We were able to pull it back together again. There were a lot of false starts. It was on, it was off, it was on. We finally got it together.

It is a good plan for the people of Ontario because it provides quick and cheap dispute resolution with no apparent cost to the consumer. There is no such thing as a free lunch, and I am sure the cost will be built in, but it will be spread out to include everybody at a minimal level. Basically, there is no additional cost to the person who wants to go to arbitration. It is a good plan. As you know, it went into effect on November 15. We have yet to have–have we had any hearings?

17:30

Miss Gibbons: No hearings yet, I do not think. I will give you an update moment by moment. It continues to change. We have 10 on the list.

Hon. Mr. Kwinter: We have 10 applications: one in London, three in Kitchener and six in Toronto. They have not been done yet, but they will start. I look forward to the program. We are going to monitor it very closely, we are going to do a full audit in two years and we will do an interim one in six months to a year. We will watch it and see to it that it effectively does the job it is intended to do.

There has been some criticism of the fact that there is no appeal. That is the basis of arbitration. We do not want this to be a rehearsal for a lawsuit. We do not want people to say: "I will go to arbitration. If I do not work it out there, I will then decide to take it to court." There is the option. The consumer, the unsatisfied purchaser, can decide whether he wants to go to arbitration or whether he wants to go the lawsuit route. That is up to him, but once it goes to arbitration, once he makes that determination, the arbitration will be binding.

The next item I will address is used-car legislation. I announced some time ago that I have every intention of bringing forward used-car legislation. It has been delayed because of the time we had to spend on OMVAP. Before we got OMVAP into place and dealt with the new cars, we could not deal with the other one. We are working with the industry, and I expect to bring that forward some time in the new year.

The next item I will address is the new home warranty plan. This is an issue that has been debated in the House with questions and answers. It is an area that is of great concern to us, but it also presents a great many problems. The problem we have is how to deal with a legislative solution when what we are dealing with is a moral or ethical problem in many cases. If you could legislate the weather, if you could legislate against strikes, shortages of materials and all these things that are beyond the control of the builder, you might have a chance. How do you legislate that a municipality must deliver the building permits on time or provide the subdivision agreement?

I want to assure this committee that my staff and I are extremely concerned with the plight of the unfortunate Ontario home purchasers who, through no fault of theirs, have found that the original closing date shown on their contract has been delayed not only once but even, in some cases, two or three times. Like many of you, I have heard all the horror stories. I have been in touch with the media, the builders and the purchasers over the past couple of days. In addition to delayed closings, I am concerned that, without telling the purchaser, a builder may enter into a contract before appropriate registration and building permits are available. I am concerned when a builder does not stress to a home purchaser the need for independent legal advice.

To tell you about the most recent case, from the information I have–and we are still investigating it–the offer of purchase and sale was conditional. This was spelled out and the purchasers knew it was a conditional offer, but they were gambling they would never have to make good on the condition. I am not trying to prejudge the case, but it is quite possible there has been some problem. If it is found that these people were functioning or operating in an unethical or illegal way, we will address it with the full force of the law and with the full force of the sanctions we have under the new home warranty plan.

Having said that, we should tell you that, contrary to what some of my critics have been saying, we have been working with the industry since March to come up with something that makes some sense. Having been in the real estate business, I can tell you it is a boom-and-bust industry. Right now it is boom time in some areas of Ontario. In other areas–and I have been there–they look at me and they cannot understand. They would love to have that problem of not being able to deliver their homes. They have homes that have been built and they cannot sell them, because there is no market.

We have a situation that is unfortunate, and I sympathize terribly with the people who get caught in this thing, but we have to make sure we come forward with a resolution that is not going to create more problems than it solves. I am quite confident that, within the next week to 10 days, the industry will be making an announcement

that should resolve most of the problems. Some of these problems are unsolvable because there are just too many variables, but it should help a great deal.

I have been told by the chairman that it is 5:30 p.m. Do I move adjournment or do you move adjournment?

Mr. Chairman: They do. Can I ask for a motion?

Ms. Hart moves adjournment.

Mr. Swart: I second that.

Mr. Chairman: Carried.

We will resume next week, and I will get the times to members of the committee for when we will be meeting. We are still operating on a somewhat flexible schedule, mainly because of Bill 105 and the limited amount of information I have on when it may return to this committee. That being the case, is there anything further?

Mr. D. R. Cooke: Did Bill 105 leave the committee?

Mr. Chairman: No. What effectively happened was that we did not complete it. We had other business come before the committee and we had the disruption of Bill 7, which took place during the course of that. I am simply awaiting further direction from the House leaders on what we are to do with Bill 105.

Mr. D. R. Cooke: Have we asked them for direction?

Mr. Chairman: Yes, we certainly have, because the introduction of the expanded legislation that the Attorney General (Mr. Scott) brought forward in connection with a comparable bill may change what business we may have to do on Bill 105.

The committee adjourned at 5:37 p.m.

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Tuesday, December 9, 1986

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Haggerty, R. (Erie L)
Runciman, R. W. (Leeds PC)
Swart, M. L. (Welland-Thorold NDP)

Witnesses:

From the Ministry of Consumer and Commercial Relations:

Kwinter, Hon. M., Minister of Consumer and Commercial Relations (Wilson Heights L) and Minister of Financial Institutions
Gibbons, V. A., Deputy Minister

Ontario

No. J-3

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Official Report of Debates
Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations

Second Session, 33rd Parliament
Monday, December 15, 1986

Speaker: Honourable H. A. Edighoffer
Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, December 15, 1986

The committee met at 3:40 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1201, ministry administration program; item 1, main office:

Mr. Chairman: Members of the committee, I believe we can get started. I recognize a quorum, and all parties are represented. We have approximately two more days on the matters pertaining to the estimates of the Ministry of Consumer and Commercial Relations. I would like to get on with that process as quickly as we can.

To give you a quick recapitulation of what we have done, we have heard the opening statement from the minister, and by agreement, the opposition critics' statements followed from the member for Leeds (Mr. Runciman) on behalf of the Conservatives and the member for Welland-Thorold (Mr. Swart) on behalf of the New Democratic Party. We are now into the area where questions can be raised of the minister; or if the minister prefers, he is welcome at this time to make any responses he may wish to the statements of the critics.

Before we get on, I would like to have the feeling of the committee in connection with a procedural question I want to raise. That is, if we finish the estimates today and tomorrow, we will still be approximately one hour short of the time allocated to us by the House leaders. I have no way of anticipating how quickly we may go through the process of questions to the minister and the remainder of our business, but is it the interest of committee members at this time to attempt to finish our business today and tomorrow and, if we are satisfied with the conclusion of our discussions at that time cancel the last hour of the estimates?

That will be the committee's decision. I throw that to you only because it will require all of us, including the large number of staff people you see here, to reassemble for one hour. With the committee's co-operation, it is the feeling of the chair that we may well be able to get over our business in the next two days. I would like to hear from the committee members in connection with that proposal or possibility. I am trying to do only what appears to be the appropriate thing under the circumstances, but it is a committee decision. Are there any comments?

Mr. Runciman: It sounds reasonable to me.

Mr. Swart: I think it is conceded that we will have to meet tomorrow, but it is a worthy objective.

Mr. Chairman: Then without the commitment, let us work towards that objective. The committee will carry on for the next two days. If we can complete our deliberations we will not require the last hour of sittings, and if everyone co-operates I think we can do that.

I will turn now to the minister. He may wish to make some comments.

Hon. Mr. Kwinter: I wish to pick up on questions raised by the two opposition critics that were left unanswered when the committee adjourned last week. However, before I do, I would like to make a brief observation that has a measured impact on the issues we are discussing here today.

Many special interest groups are now vigorously lobbying the ministry to put their viewpoints and interests in front of me, my staff and ministry officials. I have no problem with this; this is exactly how the process works. At the same time, however, while some of these groups have put on a high-profile public relations and publicity campaign, there is not simply one viewpoint that we have to assess or take into consideration.

If we take, for example, A. L. Williams Insurance or the Ontario Monument Builders Association, these groups have propelled themselves into a high profile with the media and, obviously, with the opposition parties. Yet I think we all agree that to legislate or regulate fairly and equitably, we have to consult and listen to other concerned opinions relating to any particular issue. We have to remain objective and not rush into something that may heavily favour one viewpoint over the other just because lobbyists' pressure is greater on one side of the issue than on the other. Obviously, we all want to accomplish a result that is as fair and as equitable as we can achieve.

I will address some of the questions raised by both critics, and I will do it in the same sequence

in which they were raised in their opening remarks. The first issue I will deal with today, and one that is certainly very topical and has received a great deal of attention, is delayed closings.

Let me assure this committee that my staff and I are extremely concerned with the plight of the unfortunate Ontario home purchasers who, through no fault of theirs, found that the original closing date shown on their contract had been delayed not only once but, in some cases, two or three times. I, like many of you, have heard all of their horror stories.

In addition to delayed closings, I am concerned that a builder may enter into a contract without telling the purchaser that the developer has not even applied for registration and that building permits are not yet available. I am concerned when a builder does not stress to a home purchaser the need for independent legal advice. It is inconceivable to me that a purchaser who is making, in most cases, the most important purchase in his life would think nothing of entering into this agreement without getting independent legal counsel. I am concerned that a builder may arbitrarily cancel an agreement as a result of his or her own failure to complete the home. I am concerned with the imbalance that lies in many agreements for purchase and sale.

As a first step in eliminating my concerns, my ministry joined with the builders' association, the Ontario New Home Warranty Program, the Ministry of Housing and the Consumers' Association of Canada in an attempt to develop standard disclosure and contract provisions that would assist the home-buying public in the purchase of their new homes.

As you may recall, on November 6, 1986, the Ontario home building industry announced that a joint industry-government committee would find solutions to the problems related to late closings. Meetings have been held regularly, and we are now very close to finalization–so close, in fact, that I am expecting an announcement from the industry tomorrow.

The committee has been looking at a number of recommendations. It is looking at reasonable notice to purchasers when a closing is delayed; a predetermined time period for extensions of closing dates, beyond which time the purchaser has the option to renew or cancel his or her offer; full disclosure on the status of the land–for example, whether a subdivision is registered and whether a building permit is available; full disclosure on the building company principals and their place of business, to address the issue of numbered companies.

I think that is a very significant change. One of the biggest problems we find is that the purchaser does not know not only whom he is dealing with but also how to get in touch with them.

The committee is also looking at full disclosure of whether the terms of financing can be changed and the need for the lender's approval of the purchaser before closing; and full disclosure of any additional terms that can void or cancel the agreement.

I expect the product that will emerge from these meetings will produce a more balanced playing field between vendor and purchasers. A public announcement detailing our endeavours will be made, and I expect it will be made tomorrow.

Although we will begin with a voluntary arrangement with the builders, review will take place at all stages, and should legislation still be required I can assure you that it will happen.

Having said this, I think it is only fair that we look at the total picture across this province. In 1984, 29,548 homes were built for Ontario families. In 1985, 41,524 homes were built for Ontario families. In 1986, as of December 5, 56,167 homes were enrolled in the Ontario New Home Warranty Program.

This is a phenomenal picture. As of this date, 4,736 builders are registered with the Ontario New Home Warranty Program. Of these builders, approximately 15 created most of the difficulty we have read about. If you imagine that there are 4,736 builders and that the problem area deals with 15, then you can see that the reaction may be overkill. It is a very responsible industry, one of the largest industries in this province, and it is being maligned because of a few. Having said that, I believe that those few have to be addressed.

15:50

The numbers we are talking about represent less than one third of one per cent of Ontario's builders. These builders were responsible for a maximum of 500 to 700 units that caused consumers to endure hardship. If we take them in perspective, and without minimizing the difficulties consumers have faced, we are looking at just over one per cent of all units enrolled in the warranty program.

Since 1977, more than 1,000 builders' registrations have been revoked. These builders no longer operate in Ontario. The Ontario New Home Warranty Program will continue in its vigilance to weed out bad builders in an ongoing

effort to improve consumer protection for new home purchases.

As you now know, the Ontario New Home Warranty Program took steps last week and issued a proposal to revoke the registration of Appleford Estates Inc., the corporate body behind Ryan Homes. Revocation of its registration will prevent this corporation from carrying on business in Ontario. This action was undertaken using the existing legislation available to protect consumers. No new or amended legislation or regulation was needed. The action was taken to deal with an apparent abusive practice. Neither the warranty program nor I will tolerate any practice within the industry that is abusive of the home-buying public.

The Ontario New Home Warranties Plan Act provides that a builder may appeal a proposal to revoke registration. If the builder fails to do so within 15 days, he will be out of business. If the builder appeals, a hearing takes place before the Commercial Registration Appeal Tribunal. All the circumstances are fully reviewed to determine whether a builder failed to carry on business with integrity and honesty and with full compliance with the terms and conditions of registration.

Talks are continuing with Ryan Homes, and if a positive solution is reached the proposal to revoke registration will be withdrawn. It is doubtful that any other jurisdiction has taken steps as strong as this in the protection of new home purchasers.

No doubt you have also read with interest the situation involving Royal Pine Homes. I was advised today that Royal Pine Homes has sent a statement to the Ontario New Home Warranty Program advising that Royal Pine Homes has agreed with its purchasers–and I quote in part–"to delete entirely the conditional provisions of the agreement of purchase and sale, thus making the agreement of purchase and sale firm and binding." I suggest to the committee that the disciplinary action taken by the warranty program with respect to Ryan Homes may have contributed to the statement issued by Royal Pine Homes.

I would now like to address a question raised by the Conservative critic dealing with brewpubs. In his remarks, Mr. Runciman said the introduction of brewpubs to Ontario was an accomplishment of the previous government rather than of the current government. On June 12, 1985, the previous minister announced that the government had given approval to the concept of brewpubs and that changes in regulations would be made to allow such operations. While credit is certainly due to Mr. Runciman for having initiated the process to allow brewpubs to operate, it is this government that must be credited for vigorously pursuing the issues and making the necessary changes in regulations so that brewpubs can now operate in Ontario.

Furthermore, it is under the current government that microbreweries have been allowed to be involved in direct distribution of their product to licensees, encouraging the development of small business in Ontario. Currently, there are six brewpubs in operation in Ontario: the Atlas Hotel in Welland, the Kingston Brewers Co. restaurant in Kingston, the Amsterdam cafe in Toronto, the Judge Roy Bean in Niagara Falls, the Old Heidelberg Tavern in Heidelberg and the York Tavern in Lindsay. Two further brewpubs have been approved in principle, with licences pending. They are the Kent Hotel in Waterloo and the Queens Quay Racquet Club in Toronto.

As well, five microbreweries are currently in operation. Three are involved in direct distribution of beer to licensees. These are Conner's Brewing Ltd. in Mississauga, Ottawa Valley Brewing Co. and Wellington County Brewery in Guelph. The Wellington County Brewery also distributes through Brewers' Warehousing under a fee-for-service agreement, as do the other two small breweries, Brick Brewing Co. in Waterloo and Upper Canada Brewing in Toronto.

The next item I would like to address had to do with the royal commission inquiry into the Liquor Control Board of Ontario. Mr. Runciman referred to the Royal Commission of Inquiry into the Testing and Marketing of Liquor in Ontario, otherwise known as the Osler inquiry. I am pleased to say the inquiry was very successful. All of the Honourable Mr. Justice Osler's recommendations have been approved and have either been implemented or are in the process of being implemented. This will ensure that the problems which led to the sale of products containing ethyl carbamate will not be repeated.

Some of the rapid actions that were taken to implement the Osler recommendations are as follows. The Liquor Control Board of Ontario administration was reorganized and lines of communication improved; the LCBO sponsored a forum of provincial governments, liquor boards and federal officials to establish a rational organization on standards for liquor quality; and the LCBO laboratory facilities are being enhanced and expanded.

I initiated the Osler inquiry in November 1985, when it was brought to my attention that wines known by the LCBO to contain ethyl carbamate had not been removed from LCBO stores and were sold to the public. At the same time, I ordered the LCBO to test all wines and to remove immediately any wines containing more than the guidelines for ethyl carbamate.

Acting out of concern for the consumers of this province, I also advised at that time that consumers might wish to delay wine purchases for a day or two until the testing was completed. I also stressed at the time that ethyl carbamate was not considered to pose an immediate health threat, but there was some evidence it might be harmful if consumed in excessive quantities over a very long period. My comments were intended to reassure worried consumers and were not intended to harm the Ontario wine industry in any way.

My government has done a great deal to assist the Ontario wine industry, including: the new wine pricing formula introduced in May, which reduces the price of Ontario wines in relation to those of cheap imported wines; the IMAGE program–Innovate, Merchandise and Generate Enthusiasm–which helps to promote Ontario wines in LCBO stores; amendments to the Wine Content Act to continue to let Ontario wineries purchase imported grapes to help improve the quality of their products; the proposal, defeated in the Legislature, to let Ontario wineries sell their products through independent grocery stores; and assistance to the grape industry through the purchase of surplus grape crops.

These measures appear to be paying off. I am pleased to note that as of the first six months of this year, Ontario wines possess about 51 per cent of the domestic market. This is the highest market share they have enjoyed in several years.

With reference to Mr. Runciman's statement that a doughnut contains more ethyl carbamate than a bottle of wine, I suggest he check the validity of his sources before making such questionable comments. I am aware that ethyl carbamate is a byproduct of the fermentation process, and thus could conceivably occur in foods containing yeast, such as doughnuts, in addition to wine. However, the opinion of the experts at the Department of National Health and Welfare is that it is not likely to occur in foods, and if it did, it would be in much smaller proportions than in wine.

Where they have tested for ethyl carbamate in foods, National Health and Welfare experts have generally found it to be limited to less than 10 parts per billion. This compares with federal guidelines of 30 parts per billion for ethyl carbamate in wine. The reason that ethyl carbamate tends to exist in higher quantities in wine than in foods containing yeast is that in wine the yeast is sometimes boosted with urea, and the presence of urea increases the quantity of ethyl carbamate produced during the fermentation process.

National Health and Welfare informs me that it is extremely difficult to test for ethyl carbamate. In fact, it is so difficult that the methodology is still being developed. Nevertheless, National Health and Welfare is considered a world leader in testing for ethyl carbamate. Other countries often turn to Canada for information and assistance in testing for it, so my information comes from highly expert sources.

Many unreliable findings on levels of ethyl carbamate have been circulated, and they result from improper testing techniques. Before accepting any findings, Mr. Runciman should examine the methodology used to develop them.

16:00

The next subject I would like to address is the Ontario Advisory Committee on Liquor Regulation. This was raised by both the Conservative critic and the New Democratic Party critic.

On June 4, 1986, I announced the formation of the Ontario Advisory Committee on Liquor Regulation. The committee was established to serve as a vehicle to ensure changes in liquor regulations that both are responsible and reflect public attitudes and expectations over the next decade.

As you know, the committee is chaired by my parliamentary assistant, the member for Mississauga North (Mr. Offer). It includes the seven members of the Liquor Licence Board of Ontario and a representative from the Liquor Control Board of Ontario. The committee is supported by a secretariat of four full-time and four part-time employees of the ministry and of the liquor licence board.

Throughout the fall, the committee travelled to 18 communities across the province and held 22 public meetings. The committee visited large centres such as Toronto, Hamilton, Thunder Bay and Ottawa, as well as smaller centres such as Cornwall, Barrie and Kenora. I am told that, in total, the committee received 667 written submissions from interested individuals and organizations between June 4 and December 1.

At the public meetings, which were attended by more than 500 people, the committee heard approximately 185 oral submissions. Among

those making representations were the hospitality industry, religious organizations, student groups, social and health interests, beverage manufacturers, police and many other groups and individuals. The committee also met privately with major special interest groups, including the Ontario Hotel and Motel Association and the Addiction Research Foundation.

The committee was directed to give particular attention in its deliberations to the general philosophy and values that should be engrained in the act, the suitability and content of forms of alcohol advertising, special occasion permits, classes and types of licences, the food-liquor ratio, procedures for reviewing licence applications, days and hours of operation of licensed establishments and the suitability of maintaining the minimum drinking age. As I am sure you will agree, the work of the committee has been quite complete and has involved a great deal of time and effort on the part of the members of the board and their staff. Therefore, you will be pleased to know that the committee is not only on schedule but also, at this time, considerably under its allotted budget of $140,000. More exact figures will be available after the committee has reported.

In Mr. Runciman's remarks last Tuesday, he questioned the necessity of the committee, particularly in relation to recommendations he mentioned that were brought forward to me by former LLBO officials. As you know, some of the issues that were raised are being considered by the advisory committee, such as special occasion permits and the minimum drinking age. There is no question in my mind, however, that the work of the advisory committee is significantly greater in scope and depth.

I have also heard criticism here that the committee is not independent because it is chaired by my parliamentary assistant and is composed of LLBO and LCBO board members. Frankly, I find this attitude difficult to understand. As you are well aware, the new chairman and board members were appointed, in part, for the express purpose of involving themselves in this review. Not only is it being conducted by individuals who are able to bring their considerable skills and fresh perspective to the work at hand, but it has also provided for a degree of public input that had been unheard of in Ontario before this government came to power. I can assure you that the committee members take their responsibilities very seriously and are giving paramount consideration to the views and concerns of the groups and individuals who made contributions to the process.

Another subject that was raised dealt with the whole issue of allegations made regarding inspectors raising political funds. In the past, newspaper articles have appeared with respect to various comments on possible irregular practices at the LLBO. These comments were responding in part to concerns expressed by members of this government, both while in power and while in opposition, that were brought to our attention over the years by individuals around the province.

I am sure the general thrust is well known to all who are present here. There is a long-standing tradition in this province of humorous remarks about what it takes to get a liquor licence or a job in this area. I appreciate a good joke as much as the next person, but I also know there is often something behind a joke and, in this case, I believe I had cause for concern. As I said at the time, comments that were expressed over the years were too widespread to ignore.

It is on the public record that I had no complaints with the former chairman or the other past board members. However, the commitment of this government to revise and update the province's liquor regulations, dating back to our days in opposition, is very strong. Therefore, it was essential that, on coming into power, the new government take immediate and effective action to address the concerns and perceptions held by many members of the public.

It does not make any difference whether the perceptions were right or wrong; they were there. Something I heard more than anything else was that the only way you got anywhere with the liquor control board or the liquor licence board was to have a friend in the Conservative Party. I wish I had a nickel for everyone who told me the liquor control board and the liquor licence board were the private employment agencies of the government in power. It was something we had to address. It was important that we do it, because, whether rightly or wrongly, it was a widely held perception.

We brought in a new chairman, Douglas Drinkwalter–as I have said in the past, he is a man of great energy and impeccable credentials–and seven new board members, also individuals of ability for whom I have the highest regard. I believe these capable individuals, without ties to the past and to past ways of doing things, have gone a long way to changing Ontario's attitude about how liquor regulations work in this province. In conversations I have had with

people who have appeared before the board there is almost unanimity. They do not necessarily agree with all of its decisions, but they all seem to agree with the one comment: "There is a fresh breeze blowing through the board, and it is a pleasure to appear before it."

In their work with the advisory committee, they are taking a fresh, objective look at the issues. If they have identified any problems in the operations of the board, whether in practices, staffing, systems or other, I expect them, as responsible public servants, to make the necessary changes.

Mr. Chairman: May I interrupt the minister for a moment?

Hon. Mr. Kwinter: Sure.

Mr. Chairman: I have had an opportunity to go through estimates in the past. I might tell the members of the committee that I am finding some difficulties with the way we are proceeding. The minister made an opening statement, followed by the critic for the opposition and the critic for the third party. We are back to the minister, who is now going through a proper response to each of the questions that were raised in the critics' earlier comments. However, I find going through the minister's entire list without response from the critics to be a little stilted and perhaps a little too cumbersome to deal with.

If the critics are satisfied with the approach that we go around in this fashion without any cross-dialogue, the chairman will bow to your wishes; but it might make for some meaningful interplay in the communications process if one could interject at the appropriate time after the minister has finished a response to a specific statement on the part of the critic.

I throw that out, as I always do, only for your consideration. It is up to you to decide how you want to proceed.

Mr. Runciman: Can we have an indication from the minister of how much longer he will present his response?

Hon. Mr. Kwinter: Long.

Mr. Chairman: My concern is that you will forget what the minister said back on point one.

Hon. Mr. Kwinter: Do you want to do one point at a time, comment on it and then go on to the next one?

Mr. Runciman: Sure.

Mr. Chairman: That is what I was suggesting.

Mr. Swart: In my experience, the procedures that are followed are a little unusual. Usually there is a minister's statement and the two opposition statements, and then the minister replies very briefly, then we get into the individual estimates all on their own.

Just looking at my watch, I suspect the minister's reply may take longer than his original statement, and that does seem a bit unusual. If we are going to have his views expressed comprehensively on every issue, I guess we will have to have the right of the opposition critics to get into the debate at that time. I would have preferred that his comments be fairly brief in reply, and then we could go back to the points on the agenda. However, now that we are this far through, we are in the position where either we back up or we go through with what he has to say as quickly as possible and then get into the individual issues.

16:10

Mr. Chairman: Looking over the minister's shoulder, through his elbow or whatever from the position I am in, I would say he has a rather comprehensive response to most of the questions raised. That is only from my vantage point. If you want some direction from the chair, I suggest that we simply go back and pick up the issues, starting from the housing issue, number one, hear any responses the critics might have–on the issue with respect to guarantees on construction, occupancy and all that–and then proceed from the point where the minister has left off.

If we get into this too deeply, I will tell you what is going to happen. By about 5:30 or six o'clock you will have forgotten, in great part, what the minister had said on point one, and then there will be discussion about whether he did or did not say whatever you think he might have said.

If you are prepared to go back to point one, which was the first point raised by Mr. Runciman in his statement, then Mr. Runciman will have an opportunity to respond now. If that takes place very briefly, we move on to point two and so forth.

The minister seems to be in agreement with that. If that is the case, Mr. Runciman, you have the floor to respond to the minister's response on point one.

Mr. Runciman: This deals with my proposal with respect to the new home warranty program. Our party still believes that is the best way to proceed, but I gather, as you indicated, that you are going to be making an announcement tomorrow, so we are prepared to listen to what you have to say tomorrow in respect to dealing with the industry. You did indicate that if it does

not work you will legislate; I think that was the way you put it. How long are you prepared to wait to see whether it is going to work?

Hon. Mr. Kwinter: If I may clarify, what has happened is that, as long as it is not going to be a legislative solution, the industry want, for their own benefit, to be perceived as regulating themselves; they are coming forward with this plan. As a result of this, they are going to be making the announcement. They do not want it to be perceived that we have sort of hammered them into this thing.

We have worked very closely with them, but they want to appear to be, and they are, responsible people in the business community, and this is something they as an industry are doing. We have said fine, if this is going to work in conjunction with our greater vigilance under the new home warranty program, where we are really going to make sure these people are not ducking around corporate shadows.

We will see how this works. If they can police their own industry–and we are talking about a very small number of them–that will be fine. If we find that the situation is not abating, that it is increasing and it is widespread, then we will have to bring forward some legislation.

I have heard from several builders who are very critical of the people in their industry who they think are giving their business a bad name. Several of them have told me that, in the past year, building costs have increased about 35 per cent, and there are builders out there who made commitments a year ago who are honouring those commitments. They are making no money or in fact are losing money, but in the interests of maintaining the integrity of their reputations they are honouring those commitments. There are some marginal builders, some unscrupulous builders who are saying, "There is no way I am going to absorb that kind of increase," and they are trying to get out of their deals.

If you look at the projections, the feeling is that the market will peak, and there are signs of some weakening even now. If that happens, the situation will disappear on its own. But we are going to watch it closely. If we find that legislation does have to be brought forward, we will do so. At the present time, because it is such a relatively small but highly visible sector, we do not want to go that route.

Mr. Runciman: What are the negatives to going that route? Do you have a philosophical problem?

Hon. Mr. Kwinter: No, I do not have a philosophical problem. The problem I have is that you cannot legislate against weather, you cannot legislate against strikes, you cannot legislate against a shortage of materials and you cannot legislate against a municipality not delivering its building permits on time or registering the subdivision. You would have to sit down and come up with legislation that had so many exceptions built into it that you would have a couple of things.

You could say, "We are going to legislate that if you put down a deposit, the builder must give you interest if the deal does not close." There are very, very narrow things that you can legislate against. When you do that, you have to build in so many exceptions that it is going to present some problems, and it is also going to present problems when the market shifts. You get to the point where it is a buyer's market and the builders are sitting with houses they cannot sell and are complaining. If you take a look at the history of the building business, it has been boom and bust. There are times when builders are stuck with subdivisions in which they cannot get rid of the houses because of the economic situation: either interest rates have gone up or there is a depression. We want to make sure that is not a problem.

I am quite anxious to make sure these people are protected, but I would like to make sure it is evenhanded so that the good guys in the industry are not penalized. We are going to watch it very closely.

Mr. Runciman: A couple of members of my caucus asked me to put some questions on the record. What is the role of the home builders' association and what is the role of the ministry with respect to this industry?

Hon. Mr. Kwinter: It is really the new home warranty program. The new home warranty program registers every single builder in Ontario. You cannot build a home in Ontario unless you are registered. That provides for an insurance program to prevent or to remedy major construction flaws in a building. It also protects a purchaser to a limit of $20,000 on his deposit in case the builder fails.

One of the problems some people raise is, "What happens if you have sort of a renegade builder out there who has not registered?" That does not matter. It is illegal to build without registration. Whether you buy a house from an unregistered builder or from a registered builder, you get the same protection, because the program covers every house in Ontario. It is not as if the consumer is at risk if he happens to buy from an unregistered builder, but we have the legal

remedies to get after the builder who is not registered.

Mr. Runciman: What is the municipality's obligation and responsibility on this, since it issues final approval?

Hon. Mr. Kwinter: The municipality has responsibility for subdivision approval, issuing building permits and inspecting the houses to make sure they meet the minimal building codes. However, even if a house is built according to the code, there is no guarantee it is built properly. A house can pass the code and still have some problems. If there is a major structural defect, it is covered by the new home warranty program, notwithstanding that it has been approved by the municipality.

Mr. Runciman: So there is no responsibility on the part of the municipality.

Hon. Mr. Kwinter: There is a responsibility only in that you cannot live in a house unless you have an occupancy permit. It has to be deemed fit for habitation. They will send in their electrical inspectors and plumbing inspectors to make sure all the services provided to that house are properly installed and meet the standards that are set out in the building code and make sure the house is fit for habitation. However, it does not include things of a structural nature that could go wrong because of poor workmanship. That is covered by the new home warranty program.

Mr. Chairman: May I have a supplementary on that, Mr. Runciman?

Mr. Runciman: Sure.

Mr. Chairman: In the case of the municipal inspections, if the municipality carries out an inspection and issues all the final permits–I understand there is something called a temporary occupancy permit, with a final permit to follow if the home is completed. As an example, if there were a requirement within the local building code concerning an insulation standard, and if the home owner, after receiving the final occupancy permit and all the approvals from the local municipality, were to find out six months later that instead of being at the required standard the insulation was half that or considerably less than that–and I use that as an example because insulation is usually covered up and you do not see it–who is responsible for having given that approval? I understand the municipality gives the final approval. What is it approving?

Hon. Mr. Kwinter: The municipality would be responsible. What happens is this. Before construction is finished and before all these things take place, certain stages have to be approved by the respective inspectors. Before they can proceed to the next phase, they have to have those approvals. Subsequent to that, if you find that the specifications of the municipal building code have not been met, then it is the municipality issuing the permit which says they have been met that is at risk.

16:20

What happens is that there is a whole chain before financing can be provided. Before the mortgage company will advance the funds, it has to make sure these various approvals have been given. They have staged draws based on performance. Once the roof goes on, you get so much money; once the house is totally closed, you get so much money. They rely on building inspectors and their own inspectors to verify that everything has been done.

The Ontario New Home Warranty Program kicks in after the house is built. If a major structural flaw appears, the new home warranty program will repair that flaw. It has nothing to do with some of these other aspects that are a municipality's responsibility.

Mr. Chairman: Let me ask you about a specific case. I will not use names in connection with it because it might not be appropriate at the moment. I have a situation where a house was built in a subdivision and it appears that the approved subdivision elevation requirements for that area were not met by one builder of one home. It is probably a foot or perhaps as much as two feet below the elevation outlines called for in the subdivision plan.

The approval was given by the municipality. The builder went ahead and built. The final occupancy permit, not the interim or the temporary one, was given. The home owner moved into the home and now finds that his home is a foot or two feet below what the rest of the subdivision is built to. After checking and having the whole matter carefully assessed, he finds that the builder made an error. In fact, the municipality gave an approval. Now we have a whole house constructed in a situation that is causing all the runoff from the surrounding neighbours to end up on this individual's property and so forth.

He went to the municipality–this is part of its local code, part of its local requirement–and it indicated that it has no obligation or responsibility. The builder indicates the approvals were all given at every stage by the municipality, so he too has no responsibility. I now am going to be writing your ministry with respect to this case to attempt to find out–this is an expensive one, not just a back porch that has fallen down or even a

structural problem. This is an entire house built in such a way that it is going to require a tremendous amount of money to rectify the problem. Who does the home owner then fall back on? I have a strong belief that the home builders' association will tell him that it is not its problem and that the same thing will happen at the local municipality. The only recourse the individual has is to go to your ministry.

Hon. Mr. Kwinter: The way the process works is that the subdivider, the developer of the land goes to the municipality and registers a subdivision and enters into a subdivision agreement with the municipality. In that subdivision agreement they approve all grades, the runoffs, the roads and the curb cuts; all of those things are approved in the subdivision agreement. The subdivider has an obligation to put in storm sewers, sanitary sewers, water, gas and provide the final grade and all the different things that are demanded of the subdivider by the municipality. The subdivider then goes out and can either build entirely on his own or sell lots off to individual builders.

When he sells off, he can sell five lots to one builder and five lots to another builder. He can have many builders in his subdivision. Notwithstanding that, he has the ultimate responsibility to maintain the subdivision agreement because the subdivision agreement is between the subdivider and the municipality. Normally what happens is that before the footings are poured, they have to get them approved. They have to make sure the curb cuts and all those things are according to the subdivision plan. You have a legal case here. Offhand, I would say it is probably the responsibility of the subdivider, but who knows what happened in the interim. Normally, the subdivider sets down the criteria that the builder must adhere to because it is the subdivider who is going to be responsible.

If the house you are talking about was not built to proper specifications, you are going to have runoffs that are going to affect the neighbours and you are going to have many problems because the one house does not conform to what the subdivider wanted. I assume the subdivider had the responsibility before that took place. They usually come in and approve the siting of the house because that is not the builder's decision. Where the house sits on the lot and what the final grade is going to be is part of the subdivision agreement. Somewhere along the line, from what you tell me, it is a matter of the footings being put in at the wrong level and now the house is too low or too high.

Mr. Chairman: It is too low.

Hon. Mr. Kwinter: Too low.

Mr. Swart: I am not sure that I agree totally with you, minister. I spent 20 years in municipal government. It is my understanding that once a subdivision has been approved by a municipality, the level at which the house must be built, etc. becomes part of the municipal document. Anybody who purchases a lot, whether it is a builder or whether an individual purchases a lot, he has to build according to the plan that is registered, which has the lot levels. It is up to the builder, not the developer, once he has set the lot levels on his whole development. It is my understanding that it is then up to a builder to abide by the lot levels. Am I not correct?

Hon. Mr. Kwinter: I do not know the exact situation. That is why it is a legal situation. If you have a single lot and as a builder you come in and build to what is the required level, then it is up to the builder. If it is in a controlled subdivision and the subdivider still has control over it and is just allowing certain builders to come in and build, then it may be the subdivider. That is why I say it is a legal case. I do not know the situation.

Mr. Swart: I understood from what you said that it was always the developer who was responsible for it. It is my understanding that once a builder has bought those properties and has clear ownership to those properties, it becomes his responsibility to live up to the lot levels.

Hon. Mr. Kwinter: Perhaps I can give you an example. Take the Erin Mills developments. There are literally dozens of builders, but Erin Mills Development Corp. maintains final authority over what goes in there because it has a controlled subdivision. They control not only how the house is built but also the type and colour of shingles that are being used, the types of finishes and the colour of the bricks. Notwithstanding that there are many builders there, when it is finished, they want them to be compatible one with another. I depends on the situation, I cannot comment on–

Mr. Swart: That is right. Frequently the builder is responsible for the levels, but in some that are controlled he is not. Mr. Chairman, it becomes a legal matter as to who is responsible. That has to be searched out.

Perhaps we should get back to the other area of concern, the completion dates and the home builders' association's responsibilities. I do not know whether you were–

Mr. Runciman: No, I think I have said enough on this at this stage.

Mr. Swart: The member for Etobicoke (Mr. Philip) is here and wants to talk on this. I want to make one or two comments before Mr. Philip discusses it.

This problem of completion dates is somewhat greater than you indicate. In my area I have had at least a dozen people with almost as many contractors come to my office about the contractor not living up to the completion date that was given. It is true that such companies as Ryan Homes and other homes that do not make the completion date get into the press and therefore come to the attention of the ministry. However, throughout Ontario generally there are a large number of contractors who, sometimes for good reason, are not able to meet the completion dates. I do not want the opinion to be left that only 15 or 30 out of the 4,000 builders in this province are not meeting completion dates, because that is simply not the case.

16:30

I am concerned about the incentive that has existed, and that exists at present, for builders not to meet the dates. They have nothing to lose. In many respects, they have a substantial amount to gain if they lose a house or if a situation arises where they can force people to pay additional money. I suggest there has been, and often is, competition for completion dates. A person who wants to build a home will go out to talk to a contractor. One contractor will say, "I can complete that within nine months." Another contractor will say, "I will complete that within six months." That individual, if he is getting his own contractor, is more likely to go to the contractor who says he will complete it in six months. Then they find out afterwards that this has no meaning. Perhaps, instead of six months, it is 16 months.

I think there is justification for having uniform options and/or agreements of purchase throughout this province. I also submit there is substantial reason to have a requirement that there be some penalties if the builders do not meet the completion dates. It would certainly make them much more careful. I recognize there is a variety of reasons, especially in times such as these, that the contractors cannot meet completion dates. I also recognize that these cannot always be taken into consideration. Some organization such as the home builders' association could have some arbitration powers.

At first, perhaps we will not want to put extensive penalties in legislation or regulations, but believe me, an awful lot of home purchasers are paying massive penalties because they are not getting into homes when they expected to get into those homes. Some of them are out on the street. Others have to rent very expensive and unsatisfactory accommodation until they get their homes.

Although the problem, to the degree it exists today, is perhaps unique, in my view there is justification for having some legislation to provide protection to those home purchasers. You have stated that if this does not work, you will bring in legislation. That may be enough of a threat right now to prevent the situation from worsening or even continuing to the degree that it has, but I suggest that some kind of legislation, which may not be terribly tough legislation at first but which will let the builders know you mean business, may have a very beneficial effect on the problems that exist and prevent them in the future.

Hon. Mr. Kwinter: One of the things we have to be concerned about is that when we are talking about house building, there is no compulsion on a house builder to do anything. He decides whether he is going into the marketplace and how he is going to go into the marketplace. The minute you bring in legislation that will penalize him in some way if he does not meet his target date, every builder in Ontario will use a form that says, "I promise delivery of this house to you in 36 months or sooner." That will be it. You will sign it and say, "What does that mean?" He will say: "I will give you this house in three years or sooner if I can deliver it. If you do not like it, too bad. That is the only way I am going to sell you a house. You cannot make me sell it to you any other way."

All you can say is: "Yes, I can. I will go somewhere else." Then you go to another builder and say, "When are you going to deliver this house?" He will say, "I am going to deliver it in 24 months or sooner." It is trying to get someone to tie himself to a date of nine months, knowing that if he cannot, and that if there are situations over which he has no control, he is going to be penalized.

In the same way that I caution every home purchaser to get legal advice and to look at the document he is signing and to make sure he is adequately protected, there is not a company going whose legal counsel is going to allow the company to get involved in a contract that is going to put it at risk. The company will come up with the broadest possible terms to protect itself. Then it will say: "This is an outside figure. We

will deliver it in three years. We are certainly going to make every effort to deliver it in nine months, but we cannot put that in writing because if we miss it, we are going to be penalized and we are not prepared to be penalized."

This is one of the problems you have when dealing with this problem. It is not something about which you can compel somebody. You cannot call up and say, "I am very sorry, but unless you build this house for me in nine months' time I am going to bring the full force of the law against you." There is no compulsion built in to do that. This is the problem we have.

Mr. Swart: If the builder wants the business, he will give reasonable completion dates. I could argue the point further, but I know Mr. Philip has to leave.

Mr. Philip: I would like to ask the minister some specific questions about Ryan Homes, the Georgian Group and a couple of other areas where exit clauses have been used by the builder to inflate the original contract. Can you tell me the specific provision of the home warranty program under which Ryan Homes has had its right to operate in Ontario temporarily suspended pending a hearing?

Hon. Mr. Kwinter: Its rights have not been suspended. It has been served with notice that the registrar proposes to withdraw its registration. He is proposing to withdraw its registration on the basis that it has not carried out its contractual agreement. What is happening is that Ryan Homes or Georgian homes–what is the corporate name?

Ms. Rush: Appleford.

Hon. Mr. Kwinter: Appleford has 15 days after notification to notify the Commercial Registration Appeal Tribunal that it will appeal this withdrawal. At that point, it will make its case as to why it has not in any way not followed through on its contractual arrangement. As the registrar of the Ontario New Home Warranty Program, we will have to say why the company did. In the meantime, until that determination has been made, the company is still in business, except that it is my understanding it cannot do anything with those lots until this has been resolved.

Mr. Philip: Can the minister specify how this company is alleged not to have fulfilled its contractual obligations? What is Ryan Homes appealing?

Ms. Rush: The matter is still under discussion. The 15-day period has not elapsed. During these 15 days, discussions are going on between the registrar of the Ontario New Home Warranty Program and the builder. Appleford will determine whether it will give over its licence or whether it wishes to appeal. It is through that process that the evidence on both sides would be given at the Commercial Registration Appeal Tribunal in a hearing. It is somewhat premature to address your question.

Mr. Philip: How can Ryan Homes appeal something unless what it is appealing is specific?

Ms. Rush: The proposal is specific to Ryan Homes and has been delivered to it.

Mr. Philip: I am asking for details of the grounds on which you are pulling the right of Ryan Homes to operate in Ontario. Some of the people who feel they have been ripped off by Ryan Homes would at least like to know the grounds you think you have for withholding a licence from Ryan Homes. I recognize you say it is a breach of contract. The solicitors I spoke to who have examined the contracts think they may have a fairly good legal case for breach of contract, but I would like to know your case. You have pulled the company's licence. What is your case?

16:40

Ms. Rush: All we can say at this point, sir, is that the proposal to revoke the registration is based on the lack of performance in the pursuit of the obligation of purchase and sale by Ryan Homes. I do not believe we are in a position to say more than that at this point.

Mr. Philip: I am confused. I do not want to be or appear to be an advocate for Ryan Homes, but I am trying to find out what the case is. If I were a lawyer operating on behalf of Ryan Homes I would ask, "How can I appeal something unless I know what the charge is?" I am asking you specifically what the charge is against Ryan Homes.

Miss Gibbons: Ryan Homes would know the charge because it would have been served with the proposal. Their lawyers would be aware of that. I am a little uncertain whether we can discuss the content of that proposal, because it is a matter of potential legal action and review.

Mr. Philip: You are saying you do have content and you are not simply pulling–

Miss Gibbons: The registrar would not revoke, do something as serious as this without content.

Mr. Philip: Since it is going to be an open tribunal in which they can appeal it, surely what

they are being charged with should be public information.

Ms. Rush: That information is saying they did not pursue their part of the contract.

Mr. Philip: In what way did they not pursue their part of the contract?

Miss Gibbons: It is those specifics that we probably are not at liberty to discuss. If you can leave it with us and if there is some information that is not currently in the public domain that can be, we will certainly get it to you.

Mr. Philip: The appeal hearing is in the public domain, is it not?

Miss Gibbons: I am trying to find out what the status of the proposal is before the company takes the decision to do it.

Ms. Rush: We do not have a hearing until a decision is made by the builder or the registrar within this 15-day period.

Miss Gibbons: Should that be information that is available to you, we will certainly provide it.

Mr. Philip: Would it come as a surprise to you to learn that Dr. S. K. Kumra claims that in the 1981 hot market, Tony Maida, president of another company operating under Georgian Homes, pulled a similar kind of action?

In that case, he had a clause that said a particular mortgage had to be obtained. There was a clerical error of some sort, so Dr. Kumra did not obtain the mortgage on the particular date. He arrived with cash and offered to pay cash, and on that technicality Mr. Maida tried to get out of the contract.

I have an extensive handwritten letter here that may be of some interest to the tribunal when it is dealing with Tony Maida. A reporter, who last week had said to me, "There is something strangely familiar about this man," called me this morning. She informs me he is the same gentleman who built a Berlin-type wall around an apartment building on Scarlett Road, which the city of Etobicoke had to order demolished because it was on public property, as a way of harassing tenants when he wanted to do a demolition of a building in that area.

What happens if Ryan Homes simply says, "Fine, we are folding up operations"? Under your restriction, it may not sell the individual lots. Is there anything to prevent it from selling what is left of the company–namely, all the company's assets–to another company?

Miss Gibbons: I think the answer to that is no.

Hon. Mr. Kwinter: There is nothing to prevent them from doing that.

Miss Gibbons: The current legislation does not provide for that restriction. Remember, this program was originally set up to do something different.

Mr. Philip: Therefore, I was correct in my assertion, and the minister disagreed with me in the House today, that Ryan Homes could simply say, "Fine, we are deregistered, we no longer want to operate and we will sell our property to another company." The other company could well be one in the Georgian Group, which could, in turn, merchandise the properties at the inflated amount that Ryan Homes originally wanted to charge.

Hon. Mr. Kwinter: I did not say that. You asked me whether there was anything to prevent them from selling their assets, other than the ones that were covered by this dispute, to someone else. I said I did not think there was any way we could prevent them from doing that.

Then you said there was no reason they could not sell them to another part of their group and do the same thing over again. They may have some problems with that, because if they are the same principals the Ontario New Home Warranty Program may not register them. What I am saying is that we cannot in any way say to them, "I am sorry, not only can you not build on it but you also cannot sell it to anyone." It may be to our distinct advantage to say, "You guys cannot build it. Sell them off to someone else and let them build it," and have them sell them to a reputable builder.

You then took it one step further and asked, what happens if they sell it, literally, to themselves? There they would have a problem.

Mr. Philip: I am getting two different answers, one from your staff and one from you. Your staff are saying yes, they could sell it to another company.

Hon. Mr. Kwinter: I am saying the same thing.

Mr. Philip: But the other company can be another subsidiary of the Georgian Group.

Hon. Mr. Kwinter: That is a whole different thing. You asked, could they sell it to another company? They said yes and I am saying yes. Then you added on to that, could it be another company in the group? I am saying to you that they could sell it to another company, but if the principals turn out to be the same people who have just been deregistered, they would have a problem.

Mr. Philip: Are you aware of the other company, which I understand is also headed by

Tony Maida, Barbrook Mills Inc., which used the same exit clause in the agreement to try to reduce the size of one home? The agreement of purchase was entered into in November 1985. In July 31, 1986, the development was still not registered, and what they tried to do was to reduce the home by 1,000 square feet and sell it at the same price. Steve and Carol Fenton were simply told, "If you do not like it, then we are going to use the exit clause."

Mr. Chairman: What was the size of the house, Mr. Philip? One thousand square feet is–

Mr. Philip: I imagine it would be a bit larger than my home, to take off 1,000 square feet; but there is nothing that says–

Mr. Chairman: Have you any idea what percentage? I am trying to get an idea of the scope of the reduction.

Mr. Philip: To reduce it by 1,000 square feet, unless the person was going to live in the outhouse, one would expect the house was around 3,500 square feet. I imagine houses in that area are running about that size. I do not know for sure. I will supply the minister with a copy of the letter I have received from the solicitors, who have written to me on this:

"We, as solicitors for the Fentons, tried to resolve the problem by attempting to initiate negotiations with the Georgian Group and its solicitors. No reasonable response was received. In fact, at this point, without any notice or warning, the Georgian Group invoked the above-noted escape clause relating to the registration of the plan of the subdivision and unilaterally declared the agreement null and void. The value of the house had escalated substantially by this date. We subsequently discovered that the plan of subdivision had in fact been registered only a few days later."

What you have with the Georgian Group is not just one company doing this; you may have other companies, all with the same person in and out of different companies doing the same kind of thing. I would appreciate it if the minister would get back to me on this, because here is a case where the lawyers are not getting anywhere, and what is hard is that it costs the individual an awful lot of money.

Let me go back to the original case that I–

16:50

Mr. Runciman: On a point of order, Mr. Chairman: Mr. Philip has had about 15 minutes now. I am not sure whether he is a member of this committee. In any event, we have two critics here and we have a number of subject areas to discuss. We have devoted at least half an hour or more to this one. I would personally like to get on to another subject.

Mr. Chairman: I indicated that the chair would be reasonably flexible in its allocation of time. Mr. Swart had asked for this as well. I am arbitrarily going to give Mr. Philip three or four minutes to wrap up the subject, and then we will move on.

Mr. Swart: On the point of order, Mr. Chairman: I want to say we are in this process now, but I did bring up at the beginning of the estimates the need to allot time in slots and to have equal division of time between the parties. I understand why Mr. Runciman is raising this issue, but every time I have been in estimates we have got into this unless we had set up some plan ahead of time. If we want to spend half an hour or an hour on the housing regulations, then we should set that up ahead of time. I presume we are now going to end up without getting to some of the things we want to get to.

Mr. Chairman: We are going to try to move along as expeditiously as possible. Mr. Philip, I ask you to–

Mr. Philip: Let me tell the minister another horror story. Is he aware of a company called Viewmark Homes, perhaps going under the name of Major Mackenzie Homes? According to a constituent of mine–and I will be happy to supply the documents–the company has reduced the basement and altered the design of the kitchen, made it smaller. His lawyer says there is nothing that can be done as a result of clause 28 in the agreement. Clause 28 states:

"If the vendor is unable to construct the model-type elevation for reasons determined by the municipality, the subdivider or the vendor, then a substitute lot will be provided at the vendor's discretion or this offer becomes nul and void and the purchaser's deposit returned to him in full without interest; and no circumstances shall allow that the purchaser be permitted an abatement to the purchase price or shall the vendor or agent be liable for the damage or the cost."

Here is a person who goes out and buys a house that is supposed to be in a particular location, and now the builder says: "I am sorry. I cannot build it on a lot that size. If you do not like it, there is nothing you can do about it, because I have an extra clause that allows us to get out of the deal. Because of inflation, I can sell that house at a higher price no matter what changes I make, so I am going to make tens of thousands of dollars extra on it and you can go whistle."

I do not know whether these companies are in any way related. In doing the computer run-up, you cannot even find some of these companies by contacting your ministry. In the information on the various builders from the computer records of the new home warranty program, when we had a run-up done on Major Mackenzie Homes, it came up as, "No record." Royal Pine Homes, which has just made an agreement, was not on the computer, but at least there was a statement that there was an investigation.

The fact is that these contracts are extremely one-sided. Any of the lawyers involved in the real estate business whom I know and respect have said that these contracts were absolutely preposterous when I showed the contracts to them. When I met with the Toronto Home Builders' Association, it agreed that they were one sided. You have to act to bring in a standardized contract that will give an equal balance of rights to both the builder and the consumer.

I recognized that when the plasterboard strike was on and no one could get the board to finish homes, there were going to be delays. When you had to bring it all the way from Saskatchewan, the builders, some of my friends who were in the trade, had hard times getting it and had to pay big bucks to get whatever they could. For heaven's sake, though, there is a difference between that kind of legitimate delay and this kind of built-in, one-sided contract that allows companies to take advantage of the consumer in an inflated market.

It is your responsibility as minister. You cannot simply pass the buck off to the industry.

Hon. Mr. Kwinter: You said the lawyer said this was a preposterous contract. I submit to you respectfully that this is why a consumer has to have a lawyer representing him. A consumer should never be allowed to sign a preposterous contract. The essence of a contract is mutual agreement. There has to be some mutual agreement about what is happening. There is no compulsion on anybody's part to sign anything unless he is happy with it.

Mr. Philip: I submit to you that this shows your complete ignorance of the marketplace. The fact is that the lawyers of every one of the consumers to whom I have talked tried to make amendments to the contracts and were told, "We are sorry, but we will not make an amendment to the contract." If the person wanted to live in that area, he had no choice but to accept on good faith that the developer would do the things he said he would do in a reasonable time. The consumer did not have the choice. When the consumer tried to exercise his choice, it was no deal.

Hon. Mr. Kwinter: You are going on the assumption that everybody must be able to live where he wants to live and everybody must be able to sell that person where he wants to live.

Mr. Philip: No. I am going–

Hon. Mr. Kwinter: Just one second. I do not know the kinds of consumers you know, but no one will compel me to sign anything by hyping me by saying, "If you do not do this now, you are not going to get your house." I take legal advice, and if my lawyer says to me, "I am sorry, Mr. Kwinter, but I cannot in all good conscience allow you to sign this document," then if I say, "Notwithstanding your advice, I will sign it," I take the consequences. You are signing this thing on your own volition. You have been told the pitfalls and why you should not sign it. You cannot use the argument that you do not know the marketplace. The marketplace has nothing to do with good legal representation.

What happens is that it works both ways. There are lots of times when the market swings and it is a buyer's market. You go in and hammer the builder. He has mortgage payments to make and his bank manager is calling him and saying, "Unless you come up with some money tomorrow, I am going to close you down." He gets involved in a totally one-sided deal that favours the purchaser. The purchaser walks around and gloats and says: "Did I ever stick it to that guy. Because he was stuck, I got all these great things. He paved my driveway and he gave me an extra garage. He did all these things because I was in a position to do it."

That is the marketplace, but you cannot have it both ways. It has to be fair and equitable, and legislation has to cover the consumer and the builder in both good times and bad times. Right now, if you are going to legislate just because it is a hot market, the Ontario New Home Warranty Program was not even contemplated to deal with that issue; it was not there for that. We are using it because we have the opportunity to use it, but it was not structured to do that.

Mr. Philip: As the Minister of Consumer and Commercial Relations–

Mr. Chairman: We just about–

Mr. Philip: Let me just respond for one second.

Mr. Chairman: I will allow a brief response. The member for Brock (Mr. Partington) has been waiting patiently to get into this, Mr. Swart has had his hand up and I have to allow another

subject to be put on the floor very quickly. You have 60 seconds, and then I will have to ask you to pass to someone else.

Mr. Philip: My assumption is that, as the Minister of Consumer and Commercial Relations, you would at least want a balanced contract. It is for the times when there is a hot market, when the consumer does not have a choice, that you should be legislating, not for the good times. When it is a buyer's market, any builder worth his salt does not build. I have friends in the business, and when the market is not going well, when the interest rates go up, they get out of the business, reduce the amount they are building and cut their inventories, so do not give me that.

These contracts were deliberately one-sided, and you do nothing but protect the industry. For once it would be nice for you to do something other than study. Do you know what you remind me of? You remind me of the guy who studies Freud all his life and never has a date.

Mr. Runciman: He couched that in proper terms.

Mr. Partington: Although the answer may be to seek out competent legal advice, certainly a market such as this is one where the vendor may clearly say: "Do not change an agreement. Do not even change a typographical error if you want the transaction." It forces people to act under pressure, as we have seen, to their detriment, and I think the initiative of the government is required to stop this type of situation from occurring by some change to a standard contract, as has been suggested.

17:00

Hon. Mr. Kwinter: The point I am trying to make is that there is no way any legislation can compel two people to enter into a contract.

Mr. Partington: I will agree with that.

Hon. Mr. Kwinter: You will agree with that.

Mr. Partington: Absolutely.

Hon. Mr. Kwinter: The market dictates whether they can do it. In a buyer's market, they are not nearly as independent as they are in a seller's market.

Mr. Partington: But there are different forces. Go ahead.

Hon. Mr. Kwinter: Sure there are different forces. Houses are not built overnight. It is not easy to anticipate the market. Right now, the market is hot, but it could cool off in a month or two. It depends on what happens. We have to try to bring some rationale to the marketplace.

The industry is as concerned as anyone because they have to be here for the long haul. They have to be here during good times and bad times. The responsible element of the building industry is as concerned about what is happening to its image as anyone, because this is its business. It hopes to introduce some changes to the way it does business that will help this problem. We are also going to bring whatever we can to bear on the industry through the new home warranty program. It was not structured to deal with this problem because this is a relatively unique situation. The problem is there only because of the heated market. If the market were not heated, this would not be a problem, so we have to deal with that.

I said initially, and as we went along, that if we cannot resolve it in this way we will have to look at some legislation. It is not an easy solution. What do you legislate? You cannot legislate that two people must enter into a contract and make a deal. That is the problem we have. If you do it, for every action there is a reaction. You were not here earlier. The building industry will look at it and say: "Fine. We will deliver the house in 36 months or sooner. That is the deal we will give you. If you do not like it, go somewhere else and buy your house."

Mr. Partington: That is a little extreme.

Hon. Mr. Kwinter: That is what I am saying; they will put in some extremely long closing date they feel will never catch them and work towards it so they do not get any sanctions against them. That is the problem we have to deal with.

Mr. Chairman: May we move on to another subject?

Mr. Swart: I will be brief. I am not sure I understood what the minister meant when he said this company, Ryan Homes, could not be sold, that the registrar would not approve the sale to another company where the principals were the same people, or that they would not get the registration.

Hon. Mr. Kwinter: They would not get the registration.

Mr. Swart: It is my understanding that there are other companies already registered. Can you stop the sale if they want to sell? Say this other company that has the same principals has not had the same problems. How can you deregister that company, which has not had any problems? As my colleague said, it is much more serious than that. I do not see how you can deregister that company, which already has a registration, because it bought out this other company that has

all the problems. Can you tell me how that can be done?

Hon. Mr. Kwinter: What will happen is that, as is currently provided, the moment the new home warranty program identifies what it considers to be a bad apple, it flags the company to be watched. In a legal sense, you may be right. They may be able to set up a new company but it is something the new home warranty program will monitor.

Mr. Swart: I am not talking about a new company; I am talking about taking over, about buying out a company and that company becoming part of the original company. How could you deregister that company?

Hon. Mr. Kwinter: They are working to find a solution, a way to do that.

Mr. Swart: I suggest there is no way at present and that this is very well what might happen with these companies in which the principals own three or four separate companies. I do not want to give them any hints as to how they can get around this; the reverse is true. You should take a look at this and see whether it may be necessary to bring in emergency legislation so this sort of thing does not take place.

Hon. Mr. Kwinter: That is a good point.

Mr. Chairman: Perhaps we can move along. Going down the minister's list, the second thing he referred to earlier in his response to the critics' comments was brewpubs. Is there any comment on that?

Mr. Runciman: Can we agree to move away from the list you are talking about? If Mr. Swart agrees, there is a subject about which both he and I mentioned some concerns in our statements. Can we have some time today to deal with the monument builders' concerns? Perhaps we can hear the minister's response, if it is not too lengthy, and then Mr. Swart and I can deal with these issues.

Mr. Chairman: I have no problem with that.

Hon. Mr. Kwinter: I listened carefully to the comments the honourable members made with respect to consumer protection in the funerary sector. I would like to make it clear that I am very sensitive to the need for strong legislation to protect consumers, given the vulnerable and emotional condition of most bereaved relatives and the very short time frames in which decisions must be made. Consumer vulnerability is compounded by the fact that many buyers have little knowledge of funeral procedures, legal requirements or restrictions or available choices and costs. It is in recognition of this that, over the years, Ontario has put in place a comprehensive framework of regulation in the funerary sector to protect the consumer.

Members of the funerary sector are regulated by the Cemeteries Act, the Funeral Services Act or the Prearranged Funeral Services Act. In addition, certain unfair practices by all businesses in Ontario are controlled by the business practices division. This framework of rules has served the people of this province well over the years.

Although there are frequent allegations about consumer abuses or anticompetitive practices by certain segments of the industry, very little in the way of hard fact is put forward to support these allegations. Unfortunately, we cannot assume that because there are few complaints there are no consumer abuses. Because of the extreme emotional distress experienced by bereaved relatives, there is often a reluctance to complain. Therefore, while reported cases of consumer abuse are few and far between, it remains my firm position that no abuse will be tolerated.

I am delighted to report that there is an historic opportunity over the next 12 months to review, and if necessary to amend all the legislation and regulations affecting the funerary sector. Any changes will be made only after full consultation with affected interests. Initial meetings have already been held between my officials and the Ontario Monument Builders Association, the Ontario Association of Cemeteries and the Ontario Funeral Service Association. Other groups that will be approached include the United Senior Citizens of Ontario, the Federation of Ontario Memorial Societies, religious and municipal cemeterians and consumer groups. In amending the legislation, our goal will be to find long-term solutions, not Band-Aids. It is my hope that discussions will be based on the facts of the matter and not on allegations.

At this point, I would like to set the record straight on a number of the statements made by Mr. Runciman and Mr. Swart. Mr. Runciman stated that it was against the law for commercial cemeteries to sell monuments, and this is not true. There is no prohibition in the Cemeteries Act or any other piece of legislation in Ontario prohibiting any cemetery from selling cemetery supplies, including monuments. Many nonprofit cemeteries, including religious cemeteries, have come to rely on the sale of monuments and markers to break even. Therefore, any ban on the ability of nonprofit cemeteries to sell a full range of cemetery supplies could be very punitive to those organizations.

I assume we all share the position that no one is against competition. Our concerns are with unfair competition. Our challenge is to distinguish between what is fair and unfair. Federal investigation by the bureau of competition policy should be very helpful in providing some guidance.

It would also have implications for consumers. In small Ontario communities, there may not be a monument dealer. According to the Ontario Monument Builders Association, there are only 115 monument dealers in the province, which is nowhere near enough to serve Ontario's communities, many of which rely on either the local cemeterian or the funeral establishment to source their cemetery supplies. Who is to say how the consumer will best be served?

17:10

In a newsletter of April 22, 1985, the Roman Catholic cemeteries board of the city of Windsor points out that the cemetery deals with some of the same manufacturers as do the monument dealers, with one significant difference: lower prices for comparable products because of the lower overhead associated with direct purchasing.

Mr. Runciman claimed that the Turner memorandum provided evidence that flagrant abuses were taking place and that there is no need for further study. Again, this is not true. First, there appears to be a perception that the Turner memorandum was conducted by an outside consultant and is a more substantive report than is the case. In reality, the Turner memorandum was simply a preliminary internal investigation by a ministry official with respect to OMBA complaints about unfair competition by cemeteries in the sale of cemetery supplies. The memorandum concluded that the investigation did not reveal evidence to support charges under the Cemeteries Act. Since the memorandum was written purely as an internal ministry document and contains unattributed quotes and unsupported observations, it would be inappropriate to release it. In addition, investigation reports are never made public.

This does not mean that my ministry will not continue to exercise its responsibility. The file may be closed on the Turner investigation, but it is certainly not closed in terms of our ongoing vigilance in protecting the consumer. We remain prepared to investigate all substantiated complaints.

Mr. Swart alleges that Arbour Capital Resources Inc. owns 50 cemeteries. In Ontario, it owns only about 20. There are only 40 commercial cemeteries in Ontario of a total of 5,000. Obviously, the commercial cemeteries are larger operations and are close to major population centres. However, even when the total number of interments is measured, they do not account for more than 20 per cent of all activity in Ontario.

At present, we are actively investigating the links between cemeteries and funeral homes. To date, it would appear that cemeteries are linked in some way with fewer than a dozen funeral homes of a total of more than 500 in Ontario. We will continue our pursuit of this issue until all the facts are in.

Mr. Swart claims I will not enforce subsection 13(1) of the Funeral Services Act, which he describes as my own act. For the record, subsection 13(1) rests directly with the Board of Funeral Services, which is composed primarily of funeral directors. To my knowledge, the board has never attempted to enforce subsection 13(1). The responsibility to amend the regulation rests with the Ministry of Health, but my officials will be working very closely with officials in that ministry to ensure that any modifications will best reflect the consumer interest.

Mr. Swart berates Memorial Gardens for launching a $5-million suit against the OMBA when all it was doing was trying to bring its case to government. Let me assure the member that I will vigorously defend the right of any interest group to bring its concerns forward. However, we would all agree that the sine qua non of effective lobbying is a reasoned marshalling of the facts. The OMBA appears to have conceded in letters of apology to the Ontario Funeral Service Association, the investigator from the federal Department of Consumer and Corporate Affairs, the Board of Funeral Services, the Ontario Chamber of Commerce and the Canadian Association of Small Business that it cited officials in these organizations with neither their knowledge nor their approval. Does the member condone lobbyist tactics that distort the facts in order to mislead?

Mr. Swart claims I did not reply to his letter of three months ago concerning the monument builders. Again, this is factually incorrect. My reply to Mr. Swart's letter of September 9 was hand-delivered on October 9. Let me read what I wrote to Mr. Swart:

"Dear Mr. Swart:

"Thank you very much for your open letter concerning the Ontario Monument Builders Association.

"Ministry officials have been carefully analysing the content of the OMBA brief along with the

association's 10 recommendations for improvement in the bereavement sector. Arrangements are now being made to meet with Mr. Brian O'Brine to discuss his association's concerns in greater detail.

"Since the issues raised by OMBA are rather broad and complex, the meeting will afford my staff the opportunity to share with OMBA the areas that directly involve my ministry and how they are being addressed. I should also point out that my staff are currently addressing the broader implications for the bereavement sector as a whole. It is my understanding that the taxation issue with respect to commercial cemeteries is now under review by the Ministry of Revenue."

I am happy to give Mr. Swart a copy of this letter for his files.

I would like to report on the follow-up to that letter and the subsequent meeting that took place with OMBA. At the December 1 meeting, which lasted two hours, between OMBA and officials in my ministry, there was a comprehensive review of the points OMBA had raised in its October 21 letter and in its earlier submission. OMBA was reminded that tight selling and exclusive dealings are covered by federal legislation, not provincial legislation. The present investigation by the combines investigation branch should resolve that issue.

OMBA is aware that responsibility for subsection 13(1) rests with the Ministry of Health and the Board of Funeral Services at this time, but that my ministry will play a very active role in this issue. At the same time, we will continue to develop a comprehensive fact base on the issue of combinations.

On the issue of access to and payments for registry information, we continue to press OMBA, as we did at our meeting of September 5, to document in detail any current, specific instances so that we can take action. It was made clear that we were prepared to act on the basis of specific and supported examples of consumer abuses or unfair business practices, not allegations. If OMBA has files filled with information about consumer abuse or price gouging, we strongly urge that they begin to share the information with us.

OMBA has been given the same response on the Turner memorandum that I gave to you earlier. For the record, OMBA has been told consistently from the beginning that the Turner memorandum, because it was internal, would not be released but that we would take action to protect the consumer within the parameters of existing laws. An official from the Ministry of Revenue made clear there would be a consistent application of the Ontario business tax to the business component of all establishments selling monument markers or related items in Ontario, whether they were nonprofit or not.

Probably the most important element in the discussion was to inform OMBA that the Cemeteries Act will be put to total review over the next year as part of my ministry's fundamental updating of 20 pieces of legislation that relate to business practices in the province. This will be the first fundamental reassessment of the Cemeteries Act in 30 years. It was also made clear that the Cemeteries Act would be given priority and put on a fast track within this process.

OMBA has been invited to co-operate fully and constructively in the exercise, which will provide an opportunity to address issues such as aggressive sales tactics, cemetery-funeral home combinations and anticompetitive business practices.

I understand OMBA has indicated its frustration with the outcome of the meeting. Nevertheless, I want to underscore two points: first, we continue to press OMBA to provide us with any tangible fact about unfair business and consumer practices; second, our position on changes to the Cemeteries Act and its regulations, as well as to other legislation, will be based on facts. These are areas of enormously sensitive importance to consumers. To make changes lightly would be irresponsible. In particular, we will resist stroke-of-the-pen solutions.

The issues that have been raised by the member and OMBA are complex ones. I would like to quote from a very balanced and well-reasoned letter I received on the issues raised by OMBA in its brief to the government of Ontario, as requested by OMBA. The letter is dated September 30, 1986, and I quote: "The graph on page 20 of the brief could be construed to be self-serving and does not include all the facts needed to make an accurate observation. The graph only uses one dealer's figures. Is it not possible that other local dealers and out-of-towners have also cut into the dealer's sales? The graph has not allowed for the increasing popularity of cremations and mausoleum interments." I am sure the members will agree that any responsible government would move carefully and prudently before rushing in with a quick fix to this problem.

I conclude by reaffirming yet again my ministry's ongoing commitment to foster the consumer interest in this province. To this end, we will push for legislation and regulations in the

funerary sector, as in other sectors, that will provide consumers with full information, optimize the consumer's choices, prevent and punish consumer abuses and maintain fair competition.

17:20

Mr. Runciman: I want to talk about a couple of things. On a number of occasions the minister has mentioned that subsection 13(1) was under the Ministry of Health, but I think there is a clear obligation on him as the minister representing consumers in this province to take a position on it. The monument builders have made a pretty good case that there have been some rather blatant contraventions of at least the spirit of subsection 13(1). I am wondering why the minister does not feel he has any obligation, as the representative of consumers in this province, to take a position on that and to make his colleague the Minister of Health (Mr. Elston) aware that, in the view of the Ministry of Consumer and Commercial Relations, action should be taken quickly.

Hon. Mr. Kwinter: I have a very strong concern about the whole area that deals with the funerary industry, and it is no secret that the intent and desire was to move the total act over to the Ministry of Consumer and Commercial Relations so that we could deal with it. It presents a problem when we have that act administered by the Ministry of Health, which has jurisdiction over it.

We are in the middle of working this out now. We have been in consultation with the funeral services industry to come out with some joint jurisdiction where those elements of the Funeral Services Act that impact on health will be administered by the Ministry of Health and those elements that impact on the consumer will be administered by the Ministry of Consumer and Commercial Relations.

We are working on that now. We have met with the industry and told it of our intent to do that, and I am sure all the members know we were under intense lobbying by the industry to keep that act under the Ministry of Health. They did not want it to come to the Ministry of Consumer and Commercial Relations. It was as a result of that effort that we have worked out what we hope will be a suitable compromise. We will be addressing that.

Mr. Runciman: What about the question of unethical business practices in the bereavement sector? We have been given some examples, and I am sure you have as well. Canadian Funeral News articles have detailed stories of how families of patients admitted to hospital and diagnosed with terminal cancer have received telephone calls from what they considered to be conglomerate salesmen. Are you being made aware of those kinds of problems?

Hon. Mr. Kwinter: What we have said, and what I said in my remarks, was that from time to time we hear of these allegations. There is nothing we can do about allegations. We would like to get some documented facts. If we can, we do not even have to deal with it under the Funeral Services Act; we can deal with it under the Business Practices Act. If there are unfair business practices, then we can do something with that act. We have said to anyone in the industry, "If you can document that information so that we have facts to work on, we will be happy to address them."

You often get allegations, and they are just that: allegations. We ask, "Can you document that?" The response is, "I cannot document it, but I am telling you it is happening." It is very difficult for us to act on that kind of information, but if anybody can provide us with the facts, we will be eager to pursue them and rectify the situation.

Mr. Runciman: I have a couple of questions about the Turner memorandum, or whatever you want to call it. Some of the information we have been provided with, some of the significant findings of the Turner report, certainly should have been ringing some alarm bells in the ministry. Apparently, Turner concluded that independent monument builders would not survive if the commercial cemeteries were to continue their unfair business practices. That is the information we have been provided. I am not sure whether you want to comment on the accuracy of that on the basis of your earlier comments, but if indeed that kind of finding was made within the ministry a number of years ago, it has to leave us wondering why action has not occurred.

Hon. Mr. Kwinter: I want to stay away from the Turner report for obvious reasons. First, the Turner report was commissioned during the previous government's administration. It was delivered during the previous government's administration, and I find it ludicrous that members of the previous government stand up and ask me why I am not releasing that report. This was an internal report that was commissioned by them and delivered to them while they were still in power. It was not something we commissioned; it was not something we received. It is there, but it is an internal report, and whoever commissioned it got it. The reason we

have not released it is that it is an internal ministerial report, which would not normally be released. I get reports all the time. Some of them I agree with; some of them I do not agree with; some of them I will ask someone to look into and report back to me.

There has arisen the spectre of this huge, documented, detailed report that was commissioned by some savant out in the industry who brought it forward, and we are suppressing it. This was an internal memorandum requested by and delivered to the previous government. To dignify it by calling it a report, to my mind, gives it an importance that is not warranted by the document.

We are looking at the whole area of what is happening in that business, and our chief motivation is to protect the consumers. I have said, and it was quoted, that big is not necessarily bad and small is not necessarily good, but that does not mean it cannot be small and good. I am saying that we have to take a look at whether the consumers are being well served. If they are, then that is what my responsibility is. My responsibility is not to guarantee that someone will stay in business. I have no desire to see anyone go out of business, but my concern is to protect the consumer. If I can do that in a way that protects the industry and deals with it fairly, that is what we are trying to do: to provide a fair marketplace if something is going on that is putting a segment of that marketplace at risk unfairly. Again I want to caution, when I talk about competition, that it is not my role to make sure that everybody who is in business stays in business. It is my role to make sure that everybody who stays in business is treated fairly. That is something we want to do.

I have heard the representations of the monument builders and I sympathize with them, but it is difficult for me to respond when they come in and say, "Unless you do something, we are going to be out of business, because we cannot compete." If they say to me, "Unless you do something, we are going to be out of business because we are being treated unfairly," then I agree. It is the role of my ministry and of government to make sure there is fairness in the marketplace. Just because people are in business does not mean I have an obligation to make sure they stay in business. As I say, I have no intent to do anything that is going to bring them harm, but it has to be done in that context.

My major concern is fairness in the marketplace, consumer protection and making sure the consumer is well served. If we can solve everybody's problems, that is fine.

Mr. Runciman: I do not know the history of this report. I did not have a look at it during my brief time around the ministry. The member here is saying I could show my copy; but under the regulations, as I understand them, only the minister who commissioned the study has access to it. Through my office we have already requested access to that report on at least two occasions, and it has been denied.

I have a personal problem with the question of not revealing this report to the two critics who have expressed an interest in it. I can understand that you may not want it to become a public document, but I have difficulty with understanding your reluctance to allow at least the two critics, who have expressed an interest in taking a look at the report, to see what it contains.

This is a government that has talked about freedom of information and being open and making all of this kind of information available to the public. I make the request again. If this report is as insignificant as you like to suggest, you should have no qualms whatsoever in allowing both of the critics to see it.

Hon. Mr. Kwinter: May I respond to that?

Mr. Runciman: Sure.

17:30

Hon. Mr. Kwinter: Just so that there will be no misunderstanding, we are saying that even under the proposed new freedom of information act that report would not be available. It is not that it is insignificant; it is that it is a report that has hearsay in it; it has speculation in it. It is an internal report in which someone who has been asked to look at a problem has said, "I think this, this and that." It was not an objective or independent report. It was commissioned by the previous government and submitted to the previous government. It is not as though I am suppressing my report. That report was completed and submitted before we formed the government.

Mr. Runciman: How can you conclude it is not objective? Because you disagree with the conclusions?

Hon. Mr. Kwinter: No. You have only to read it and get the flavour. It was an anecdotal kind of report saying: "From my investigation of this, this sort of thing went on. I think this kind of thing went on and I think this has happened." It is not a professional document that was prepared by a consultant who put his name on the line and said, "Here is my report on this situation."

Again, I would submit to you, notwithstanding that you did not get a chance to read it during your brief stay in the ministry, that somewhere along the line one of your previous colleagues who commissioned it has that information. Notwithstanding that, any report of that kind would not normally be distributed, because it was an internal report. I think it has taken on an importance and a magnitude far beyond what the report is. That is the only point we are making.

Mr. Runciman: I will relinquish the floor to Mr. Swart for a while. I still have some comments.

Mr. Swart: I want to carry on with this. I have a number of comments I want to make and questions I want to ask, but I will carry on with this first.

It is my understanding that, rightly or wrongly, the person who made this report spent several months doing an investigation, or a review, etc.–whatever was done in making this report. It would seem that, if this is true, it may have some significance.

I can understand why certain reports or memoranda go only to the minister; but this, apparently, is a report, or a memorandum, that makes some pretty critical comments about the commercial cemeteries after some rather lengthy investigation. It seems to me that this kind of document, if we are dealing with the whole issue of cemetery regulations–and you say we are having a review of the bereavement industry as a whole–would be valuable to this committee.

I do not see any reason we could not hold a session in camera, where at least it could be read, even if it was not distributed. This has been done before. I have been in committees where it was done. We did this on the Re-Mor issue and on certain other things. It seems to me it should be pertinent to the final decision that is being made with regard to the place that cemeteries, funeral parlours and monument builders are going to have in our society. I suggest to you that I am quite prepared to go in camera to have the opportunity to hear that report, be able to read it and turn it back in. We are, I think, honourable members of the Legislature.

Hon. Mr. Kwinter: You do not have to think; I will acknowledge that you are honourable members of the Legislature.

Mr. Swart: If we go in camera, we are not going to try to photocopy that report or write it down, but at least it will give us the flavour of the situation in the commercial cemeteries, and I think that is pretty important. Perhaps you want to respond right now that there is a possibility you might be willing to do that.

Miss Gibbons: It is important to know, Mr. Swart, that this report is now two years old. You are quite right. We should, as part of our undertakings at the moment, be conducting another investigation of some dimension. As we begin to put together the issues and the facts that govern this whole sector, that will be one of the things we take into consideration.

The report itself was also intended to explore the extent to which there were violations of the Cemeteries Act. In fact, the report concludes that there were no infractions of the Cemeteries Act. The other kinds of information, as the minister has said, are peripheral and anecdotal and not the substance or the intent of the report.

Mr. Swart: With all due respect, that is not good enough for me. Whoever commissioned that report–and I do not know what minister commissioned that study and had it reported back to him–it has become one of the documents that are important in the decision-making process in this Legislature. They have certainly become part of the controversy that now exists. Thus, if we could go in camera and hear those reports or have them distributed so that we could read them while we are in camera and turn them back, no damage could be done and it would probably be a lot of help in the decision-making process, particularly to the opposition parties.

Are you considering that? Are you saying no to us today? You will not, under any circumstances, let the opposition members, the members of this committee or the opposition critics see that report?

Mr. Chairman: In defence of the minister, may I state that, at the time of the transition of the government, an agreement was made between the parties and agreed to by the leaders of the parties at that time with respect to certain reports. I do not have that document in front of me. I have seen it and I do have access to it because there were some matters that related to one of my former ministries with respect to reports on which I wanted some information. There may be some value for us in calling up that document to see whether it applies to this particular circumstance. It might not, but it might also give you some clear indication of what the ground rules are with respect to past reports to the previous government and the relationship to today's situation.

Mr. Runciman is shaking his head. Are you saying it does not have application in this situation?

Mr. Runciman: That is my understanding. At the first opportunity I had to discuss this subject, we made a request based on that understanding, and I was informed at the time that the only individual who could make that request and have it adhered to was the minister who was responsible at the time the report was commissioned. I believe in this case it was Robert Elgie. We did not approach Dr. Elgie, because of his current position. That is what I was advised at the time.

Mr. Chairman: I see. Are you saying that it would have application if it were a former minister?

Mr. Runciman: That is my understanding.

Mr. Chairman: In other words, if this matter occurred during your term as minister then you could call up that report?

Mr. Runciman: Yes.

Mr. Chairman: You could well be correct. I pass it back to the minister for his decision. I do not know what to say.

Mr. Swart: May I say one other thing before you give your firm no?

Mr. Chairman: That is an anticipatory response.

Mr. Swart: Yes, and it is not a responsible response, but you might say it anticipates a response that I think is unfair. Is it possible to have Mr. Turner come before this committee at some point? We can question him about what he found if you do not want to release the report.

Miss Gibbons: My sense is that it might be more important to get a relevant, up-to-date investigation than to table something that is two years old and has information that was peripheral to the intent of the report. Because, as the minister said, it is anecdotal and not substantive in the way it explored the issue, it will not add anything to the debate. You would be better to have something that is full and addresses the issues in a substantive way.

Mr. Swart: I am all for an updated report, but I also want to see the other one because I am not sure we are going to get an updated report. I understood the minister to say in his comments to Mr. Runciman today that they were currently investigating the integration among the cemeteries. Is that correct? Is that what you said?

It has been two years since the Turner report came in. It was a report that apparently was not very complimentary. It was certainly independent. If that report contains information about the practices of commercial cemeteries and it is only two years old, I think it has a bearing on what takes place now, regardless of whom you may put on to do the investigation. I ask that there be agreement. I realize we are in estimates and cannot move motions, but I ask for agreement from the minister that one of those two things take place. Either you agree that Mr. Turner can come before this committee so we can ask him about this report or you release the report in camera. I am not asking you to make it a public document.

17:40

Hon. Mr. Kwinter: Because this report was commissioned by a previous minister and delivered to a previous government and because it is an internal document, I do not think it is appropriate for it to be released. As a matter of procedure, I do not think those kinds of documents should be released for public debate and scrutiny. Whether it is appropriate to have Mr. Turner come before estimates is something I would like to take under advisement and get back to you on.

Mr. Swart: The estimates will probably be over tomorrow. Can you let us know tomorrow and have Mr. Turner here if you should agree?

Hon. Mr. Kwinter: I have just been told he is not even with this ministry so it is a bit of a problem. I will report back to you tomorrow as to whether he will be available.

Mr. Ramsay: Can we dig him up?

Mr. Swart: I want to deal with two or three other things. I would like to see Mr. Turner. If you will give me permission and give me a number, I will call Mr. Turner and see if he is willing to come before the committee. I will tell him why I would like to have him here. Perhaps he might come.

Mr. Chairman: We can all go to his house.

Mr. Swart: That is not because I feel that you will not ask him. It is because I am more anxious to have him here than you are and therefore might do a better job of persuading him.

Hon. Mr. Kwinter: For some reason you seem to think I have some vested interest in protecting Mr. Turner. I do not even know who Mr. Turner is. Quite frankly, I will also admit to you that I have never even read his report, so I have no idea of that. I am talking about the basic principle of what is going on.

Mr. Swart: Then we need him here for your sake.

Hon. Mr. Kwinter: I feel the information I want is more relevant information. I am not interested in looking at history. I am looking at

the problem we have and trying to resolve it. When we come forward with a comprehensive plan for this industry, I want it to be current and relevant. From what I have heard, and it is hearsay, this whole Turner thing has been blown way out of proportion. It has been attributed that it is a document of far greater import than it actually is and that he himself is of far greater influence than he actually is. It is past; it is prologue. We are saying, "Let us take a look at what is going on now and come up with something that will be relevant and address the problems today."

Mr. Swart: I do not think a report that is two years old is out of date in this instance if it deals with the tactics of commercial cemeteries.

Hon. Mr. Kwinter: You were complaining that I was using six-month-old statistics; you said they were out of date.

Mr. Swart: That is right; some things are.

Hon. Mr. Kwinter: Now it is selective; I see.

Mr. Swart: The same thing has been going on for many years. You may be absolutely right in what you say about it being overblown, out of date and all the rest of it. However, instead of you and your ministry making that determination, why not let the committee make that determination in camera?

Miss Gibbons: As the minister said in his remarks, there is the intention to review the business practices legislation completely, including the Cemeteries Act and the associated industries in the funerary sector. That is not six years from now; it is a year from now. That is the time frame to which the minister has committed himself publicly. At that time, the information, data and issues that are identified will be very much in the public forum. They will have been collected in a systematic way that allows us to evaluate one against the other.

Mr. Swart: I want to say finally to the minister that I want either Mr. Turner here or I want to see that report. Although Mr. Turner may be very limited and may refuse to discuss anything with me if you are not prepared to have him here or to release that report, I assure you I will try to find out personally from him what is in that report. I will not attempt to embarrass him or force from him any information that gives him a problem–I will make sure of that–but I want to know what is in that report.

There are two or three other things I want to say. The intent of what I was saying the other day, and I think the intent of Mr. Runciman and the Ontario Monument Builders Association in this whole discussion, is to ensure there is real and genuine competition in the bereavement industry. You are correct in saying that you have no control over horizontal integration. It is the Department of Consumer and Corporate Affairs if one wants to buy out the other or if competition does not exist among funeral homes, cemeteries, or for that matter monument builders. If they want to buy each other's businesses and only one, two or three effective businesses are left and competition is substantially eliminated, that is the responsibility of the Department of Consumer and Corporate Affairs in Ottawa.

However, I think I am right in saying that you do have authority over vertical integration. Whether cemeteries are going to be permitted to own funeral parlours and funeral parlours to own monument associations or cemeteries to own monument associations, that comes under your ministry. Is that not correct?

Hon. Mr. Kwinter: That is correct.

Mr. Swart: I dealt with the integration we have in our society the other day, the very large degree of corporate concentration in our society in a great variety of businesses. It seems to me you would have some very real concern with doing your part to ensure that competition remains, and remains substantial, in the bereavement industry. Part of that is what has been traditionally the case, although I accept it when you say that at the present time cemeteries are not performing an illegal practice if they sell monuments; nevertheless, a number of years ago, decades ago, they were. Apparently, this government has the power. You are going to find out to what degree, but there is no question that in the past few years a degree of concentration has taken place that did not exist before.

I suggest you have to consider the separation seriously. Let me put it in another way: I am concerned about preventing the vertical integration of the bereavement industry. It is in that area that I ask you to give very serious consideration to maintaining and strengthening the present legislation that funeral parlours cannot own cemeteries. You did not say it, but it is my understanding that the present legislation might not stand up if it went to court. Certainly, you will agree that the intent of subsection 13(1) is that cemeteries shall not own funeral parlours and vice versa. Do you not agree that is the intent of that legislation? It was the intent of the legislation of governments of the previous party, until it changed it, that the monument industry would also be separate.

At a time when we have a much higher degree of concentration, that is the route we should go once again. I am not saying there should be this total division in the case of monuments and cemeteries, but there has to be some legislation or rules for the powerful cemeteries. You know those commercial cemeteries are powerful. You are aware of that. It is a case of the elephant dancing among the chickens if you are saying that the commercial cemeteries and the monument builders can fight it out on their own. That is just simply not the case. If the monument builders are not going to disappear, there is going to have to be some legislation or regulations to give them some protection. You have an obligation to do that. They are the victims, not only of high-pressure sales tactics but also of the powerful being able to exact concessions from other groups.

As you know, one of these is a concession from your government even today. I am amazed that when we have amendments to the Assessment Act, there is no provision that commercial cemeteries should be taxed. They do not pay taxes. It is something odd in municipal affairs. The municipalities want them to pay taxes, yet the provincial government does not have the courage to do that.

There is an uneven competitive situation apart from the fact that they get first crack at the people who come and apart from the fact that they use tactics which are not always acceptable to the public. Many people come to talk to me about them. There is a place for your intervention. Concentration is indicated by the fact that the Department of Consumer and Corporate Affairs has launched an investigation into the funeral parlours in Hamilton, which also includes the cemeteries. There is something that you should be very concerned about at this time.

Hon. Mr. Kwinter: I am concerned.

17:50

Mr. Swart: It is with regard to ensuring competition and a place in the sun for the monument builders under equal competition. If anything fades away because it cannot compete on equal terms, then so be it, but if some business goes because there is unfair competition, then you have a responsibility. The federal government in one respect has a responsibility, but you have a responsibility because you have authority over vertical integration.

You should be bringing in legislation to provide for absolutely fair competition. Where the funeral parlours are owned by the cemetery associations, they should not be able to get first crack. The monument builders, and I know them, have traditionally felt that the time to deal with somebody who is suffering bereavement is down the road. That is the decent thing to do. They do not want to go after a person who has lost a loved one recently. Now they are losing business if they do not go after those people, and they are doing that.

I suggest you take a look at that situation and do it quickly so there is a place for them in the sun under real competition to ensure that the commercial cemeteries do not take over in this area. People are going to pay a major price not only financially but also in the way they are treated at times of bereavement. There is more I would like to say about this, but it is 5:55 p.m. and I believe somebody else wants to get into this.

Hon. Mr. Kwinter: Before we leave that, I want to assure you that I have no intention of allowing unfair competition. We are reviewing and addressing this area. I have heard your message and agree with much of what you said.

Mr. Chairman: I am going to go by my watch. I have checked with Hansard and it is now 5:55 p.m. That clock is about five minutes off. I will conclude the session at six o'clock, assuming we do not hear a bell from our friends upstairs prior to that.

Mr. Runciman: I will make a few final comments on this subject. We also have some concerns about the ministry's understanding of this issue and its commitment to change. The letter that was sent to Mr. Kwinter on December 8, signed by Brian O'Brine, expressed some concerns with respect to meeting with the deputy and others. I quote their profound disappointment. "We found that your staff were neither prepared for the meeting, nor were they prepared to discuss any of our concerns." The deputy may want to respond to that.

I would like to get our position on the record as well. Mr. Swart has expressed his views. We feel the ministry and the government should be enforcing subsection 13(1) of the Ontario Funeral Services Act and order any conglomerate that has acquired funeral homes illegally to divest its holdings. We believe you should enact legislation to maintain a distinct separation between cemeterians, funeral directors and monument builders, forcing commercialized cemetery conglomerates to divest themselves of monument selling and selling operations that compete unfairly with their tax-exempt status and eliminating the tax-exempt status of any cemetery that competes against tax-paying private companies.

Many of these small businesses are in real jeopardy now. We feel the minister has enough information at hand, if he and his staff take the time to peruse it and become familiar with it, to act and resolve this situation in a much quicker fashion than they are currently proposing.

Hon. Mr. Kwinter: We received the letter of December 8 and we are in the process of responding to it. I hear what you say and it is our intention to look at this whole area and move as expeditiously as we can.

Mr. Swart: May I ask you one further thing? Will you give a commitment today that you will notify every one of the funeral homes and the cemeteries–there is a precedent for it; you notified insurance agents–that this section of the act exists, that you are reviewing the whole situation but that during this period of time you will require that it be lived up to?

Hon. Mr. Kwinter: I will take it under advisement. As you know, I have no responsibility for that act.

Mr. Swart: I know you have not.

Hon. Mr. Kwinter: It is difficult for me to start sending people notices telling them they have to comply with someone else's act but I will discuss it with the Minister of Health to see whether I can get him to do it.

Mr. Chairman: This may be an appropriate spot to complete tonight's discussions. Can I get a motion from someone to adjourn? Ms. Hart moves we adjourn. The committee will meet tomorrow at 3:30 p.m. or as close thereto as possible. In the light of what I said at the beginning of the meeting, that we might lose an hour from the total estimates, I ask for everyone's co-operation in getting here as close to 3:30 p.m. as possible. I know you have other commitments, but if we can start on time we can get a full and thorough hearing on the ministry prior to our closing off tomorrow night, if that is our intention.

The committee adjourned at 5:58 p.m.

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From the Ministry of Consumer and Commercial Relations:

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Ontario

No. J-4

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Official Report of Debates
Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

Second Session, 33rd Parliament

Tuesday, December 16, 1986

Speaker: Honourable H. A. Edighoffer

Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, Decmeber 16, 1986

The committee met at 3:40 p.m. in room 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1201, ministry administration program; item 1, main office:

Mr. Chairman: We should get under way. There was a decision made earlier with respect to the time allocations. We may finish an hour short of completing these estimates, but there has been an agreement by all parties that if we can get through the questions, we will not go beyond six o'clock and the last hour will be erased from our allocation.

We will resume vote 1201. That is what we are speaking to. For those who were not in attendance at the last meeting, let me tell you the minister was responding to the individual questions raised by the critics. We stopped him after he had gotten into that, because it appeared it would take too much time to go through all the individual items the minister wanted to respond to. It is my understanding the minister has agreed, in the light of the time frame we have to work with, to table the balance of his responses.

When Mr. Swart of the New Democratic Party arrives, I would like to have a brief discussion about the allocation of time for the remaining issues. Mr. Runciman has two or three issues and I believe Mr. Swart has a similar number he wants to get into in some depth. We have about two hours and 15 minutes to do that. I am starting this meeting with the approval of Mr. Swart, who is on the telephone and will be here shortly. He recognizes we are going to get under way in the interests of time.

Hon. Mr. Kwinter: Do I understand that the answers I table will form part of the record?

Mr. Chairman: Yes. I do not know if there is a problem with that. Is there?

Clerk of the Committee: No. We can make them an exhibit.

Mr. Chairman: I understand from the clerk we can make them an exhibit. They will form part of the record then, so that all members will have the minister's responses. Since we are not going to be able to read them all today, and you recall the complications we had yesterday, the minister will simply table that as an exhibit to his presentation.

Mr. Swart, before you arrived, I indicated that we plan to devote the balance of our time to the major issues you and Mr. Runciman want to address. Can you indicate your two or three issues, whatever they might be? Mr. Runciman can do likewise and we can centre our attention on those issues.

Mr. Swart: There are at least three issues I and my colleagues want to discuss. I would like to have some discussion, not lengthy, on the Ontario motor vehicle arbitration plan.

I would like to have some discussion, and that probably will include a response from the minister, on the matter of a public advocate for Ontario. I raised that in my leadoff remarks. I would like further discussion on that.

I would also like to have some discussion on the Ontario Racing Commission. Ms. Bryden wants to be here for that. She will probably be here later this afternoon. There are those three at this time. Mr. Runciman has some as well.

Yesterday, you will recall, we had some discussion about whether Tom Turner might come here or make a report, and the minister said he would give some thought to that. I believe I am right in saying that. Has he anything to report on that at this moment?

Hon. Mr. Kwinter: Yesterday there was some discussion about the idea of making public the memorandum by Tom Turner relating to the bereavement sector. I have discussed this with my legal advisers and have received a legal opinion.

The memorandum by Mr. Turner stemmed from a complaint by the Ontario Monument Builders Association that they were the victims of unfair competition and that consumers were the victims of unfair and deceptive practices by many Ontario cemeteries. The report is somewhat short and lacks sufficient facts and details to support adequately any firm conclusions. It recommends that further in-depth investigation be made.

However, it does make serious allegations concerning the business practices, and more specifically the sales techniques, used by certain named firms with which Mr. Turner had contact

in his investigation. These could lead to further fact-finding and the taking of eventual law enforcement measures against them. For this reason, it should be treated as a confidential in-house report, the release of which could be detrimental to law enforcement and to the reputations of the individuals.

Thus, it is on the advice of my ministry's legal counsel–and I should tell you that just before I came to this meeting I had a full discussion with the Attorney General (Mr. Scott), who advised in the same vein–that I want to let the committee know I will not be releasing Mr. Turner's report, nor will I be making him available for questioning.

Mr. Swart: If I may comment on that, I do not think that deals exactly with the suggestion I made that we could either go in camera to deal with this or have Mr. Turner here rather than deal with it by way of making the report public. What is your answer to the other matters I raised with you: either to have Mr. Turner here or to go in camera to hear the report?

Hon. Mr. Kwinter: The answer is that I will not be making Mr. Turner available either here or in camera.

The reasons are several. I should also say that after our meeting yesterday I had occasion to look at the report, which I had not seen prior to that. It is not a report per se; it is not some great document. It is an internal memo that was sent by an investigator to various people in the ministry. It is part of material that was received in the ministry as counsel to those people responsible or to the minister. In this particular case, it was not addressed to any minister; it was addressed to people in the ministry. Because of that, I do not think it would be appropriate for that material to be made public or for the author to be subject to questioning. This is something he was doing as a result of his duties within the ministry.

I get reports all the time, some of which I act on and some of which I do not. I do not think it is reasonable to expect all of that material to be available for public scrutiny until I have acted on it and made some determination. Then, of course, as a minister, I am responsible for my actions and for what I have done. In the interim, I think it would set a very dangerous precedent to make that kind of material available.

Mr. Swart: As my final comment, I regret that this is the position of the minister. The brief report you gave would indicate that in the investigation he did–and I point out, as you well know, that he is a very competent investigator–he found business practices that–I have forgotten your terminology–were not acceptable, were not normal business practices. It seems to me this committee and we in the opposition should have some access to the information in that report.

Those are my final comments, because there are other things to go on to here, but I want to tell you that as far as I am concerned this issue is not dead.

Hon. Mr. Kwinter: If I may comment and summarize very briefly: the situation is such that if this report had been commissioned with a view to its being a public document, then it would have been vetted by legal counsel, as all such documents are, and it would have been couched in language that would protect people, because it was becoming public.

This was an internal investigation. It was what is quite often referred to as the raw investigation. It says such things as: "I talked to a few people. This fellow said this; this fellow said that." He attributes remarks to people and makes comments about people and it would be totally inappropriate for that kind of material to be released as public information. It was a confidential–

Mr. Swart: You are not going to argue it is confidential.

Hon. Mr. Kwinter: No. I have no hesitation in saying that in his summary, he says unequivocally that there is no violation of the Cemeteries Act. He points out many areas that he feels are of some concern and I share those concerns. I want to assure the members of this committee this is not a dead issue; I hate to use that pun but–

Mr. Runciman: It is a grave issue.

Hon. Mr. Kwinter: It is a situation that is being addressed in an ongoing manner in my ministry. We will be responding to that situation. I hope to be able to bring all members who are interested into the picture to let them know what we are doing.

I have said before and I will say again that this report has attained a reputation as being some great document that is going to resolve the problem; it is not that at all. It is an investigator's report that was meant for internal consumption. Releasing it would probably create as many problems as it would solve. That is the reason for the decision.

Mr. Runciman: I want to go on record as being in agreement with Mr. Swart in disagreeing with the minister and his position on this.

The minister has indicated on a number of occasions, as has his deputy, that this is not really a significant piece of business. On the other

hand, we have other individuals telling us it is very significant and it has some recommendations that should have been adhered to some time ago by the ministry.

The proposal Mr. Swart and I made yesterday, that both of us take a look in confidence at the report and see what it contains, was a useful one. Certainly, it was not in any way going to incur precedence over or do any damage to the study you have already undertaken. It would have enabled us to have a better understanding of what this is all about. That is all I want to put on the table.

I want to talk about–and I hope we will have time–the Liquor Licence Board of Ontario, the Liquor Control Board of Ontario and, briefly, the Film Review Board.

My colleague Mrs. Marland was going to try to be here. She wanted to speak to the minister briefly about his dealings with the Ghermezian brothers. If we get into Greenwood, I may have a few comments on that as well.

Mr. Chairman: I will try to move back and forth, with the agreement of the committee, and take the issues one at a time. Mr. Runciman, you have the lead on the first one you have identified, the LLBO. Then I will go to Mr. Swart. I will try to allocate the time as equitably and as fairly as I can. Certainly, the Liberal members are more than welcome to jump in at any point and make their views known.

Mr. Swart: On a point of order: I think to date I have taken more time than Mr. Runciman. If you wish to deal with two of his issues first, that is okay with me.

Mr. Chairman: That is very kind of you and I will make a note of that. I am sure Mr. Runciman is rather excited about getting two issues back to back here.

Mr. Swart: I want to be fair.

Mr. Runciman: I want to respond to a couple of things the minister mentioned in his response to my statement yesterday, when he was talking about the Ontario wineries and the fact that I had made reference to some of his comments during the period following the revelations about ethyl carbamate. He indicated the Ontario wine industry was doing perhaps as well as it had ever done. I have not had an opportunity to determine the accuracy or inaccuracy of that. I simply want to put on the record that in May 1986, the Toronto Star published an article entitled "Uncorking the Truth of Our Tainted Wine." It stated in part:

"All wineries, including those which never used urea, have been severely affected by the adverse publicity. One major producer told the Star that sales dropped 30 per cent following the public announcement of the contamination and have not fully recovered. Although the contamination was limited primarily to ports and sherries produced by three Canadian wineries, all wineries have been tarred with the same brush."

There are a couple of other matters the minister responded to. We were talking about the language that was attributed to the minister and to the chairman of LLBO and about a charge made by the now Premier (Mr. Peterson) during the election campaign. I want to deal with those; I do not believe the minister dealt with them directly in his response.

First is the charge the Premier made about inspectors encouraging licensees to make contributions to the Progressive Conservative Party. I challenged that in the House in the fall of 1985, I believe it was, and asked the minister to follow up on that statement. Specifically, I would ask him if anything has been done in that regard; if it has been, what is the outcome?

Hon. Mr. Kwinter: I did not follow up on that situation only because it was historical. It was a situation where the allegation was made during the campaign; it was not made by me. I had no indication or any evidence that had been the case; whether the Premier has or not, I do not know.

I do know, and I have said this before, that one of the most common allegations or insinuations I have heard since assuming the ministry is that the LCBO and the LLBO have been subject to political pressure, that to get a job you had to be a member or friend of the right party, that all jobs were controlled by Queen Park's and that it was the private employment agency of the Conservative Party. I was not questioning whether that was true or not. The perception was there. Whether it was right or wrong, the perception was there. There is no question that perception was there.

The reality is that in the early months of my being in the ministry it was common practice for me to get letters from various members of the Legislature, from all parties, including the Liberal Party–certainly not just from one party–saying: "Dear Minister, so-and-so would like to get a job in the store in my town. Would you please do what you can for him?" That seemed to be standard practice and the way it was done.

I have had a stream of employees coming to see me or asking to see me to tell me they had been part-timers for four years, five years or six

years and suddenly someone would come in over them whom they had never even seen before and would be on full-time. The word within the establishment at the liquor licence board or the liquor control board was the only reason that person got the job was that he knew someone who knew somebody who got him the job. Whether it was right or wrong, the perception was there. What we did was we moved to–

Mr. Runciman: You are not answering my question. You have said all this; it is on the record. You said it in the House when we dealt with your initiatives with respect to doing away with order in council appointments. That is all on the record; Mr. Swart's comment are on the record.

I am talking about a specific instance where some allegations were made by the now Premier which in effect tarred all the inspectors of the province. If the allegations are proved true, criminal charges may come out of them. Those charges were made by the then leader of the official opposition, now the Premier. They are not going to be dropped by the wayside. They should have been substantiated, or an apology should have been forthcoming. It was incumbent upon you to follow through on the allegations made by your leader.

You are saying today that nothing was done. We are going to let it float out there, along with the allegations you have made that the place was corrupt and those Mr. Drinkwalter made that people think this place is crooked.

16:00

Mr. D. R. Cooke: On a point of order, Mr. Chairman: What has this issue to do with the 1986-87 estimates? The allegation is of something that occurred early in 1985.

Mr. Chairman: What it has to do with is that the Liquor Control Board of Ontario and the Liquor Licence Board of Ontario come under the estimates of this minister. It has been traditional during the course of estimates that they are reasonably wide-sweeping and that these questions are entirely in order. If Mr. Runciman wants to dedicate his time to the issue of Mr. Drinkwalter and matters that came up over the course of the past couple of years, those issues will in some direct or indirect way affect the estimates of this ministry. In response to your point of order, I have to rule that his questions are entirely in order.

Mr. Runciman: Before I go any further, I want to say that in my dealings with Mr. Drinkwalter I have been very impressed with the gentleman. He is doing an outstanding job at the board. I am dealing with specifics and I do not want to get into broad generalities about how the public felt about the board. We have heard all that ad infinitum or ad nauseam. I disagree with a lot of it and I am already on the record with that as well.

I am talking about the specific charge that was made by the Premier, formerly the Leader of the Opposition. It is something that should have been addressed. Obviously, it has not been addressed, and I think an apology should be forthcoming with respect to that matter.

Hon. Mr. Kwinter: It is not my position to apologize for the Premier or to defend the comments that were made by the Premier. If someone feels that way, he should take it up directly with the Premier.

Mr. Runciman: I disagree with you, because you are the minister responsible for this board. These employees fall under your direction, and you have some responsibility as a minister. If an allegation reflecting upon an organization for which you are responsible is made by the leader of your party, you should feel it incumbent upon you to investigate those allegations or charges.

I specifically asked you to do so in the House in the fall of 1985, and you have done nothing. I completely disagree with your saying that simply because someone else made the charge, whether he is the leader of the party or not, you have no responsibility. I completely disagree with that position.

Hon. Mr. Kwinter: If you have employees who are prepared to lodge a complaint and who ask me to do it, I will do it. I certainly would not do it on the basis of your request, because you were not a party to this. If someone who was a party to it feels that way and would like me to do it, I will be pleased to respond, but I do not think I should respond to your request.

Mr. Runciman: It is my suggestion that the reason you have not responded to an allegation made by the leader of your party is that there is no substance to the allegation. It was an off-the-cuff comment.

Hon. Mr. Kwinter: We do not know that.

Mr. Runciman: You did not want to get into it, simply because it would be proven incorrect and your leader would be proven incorrect.

Hon. Mr. Kwinter: No. No one other than a member of the opposition, for whatever reason, lodged that particular issue. If someone who was a party to it wants me to investigate it, I will be happy to do it.

Mr. Runciman: That is a pretty weak rationale, in my view. On the basis of your suggestion, I will raise the question with your leader, since you are throwing the ball back into his court.

Mr. Swart: Although I have no doubt of the political patronage that took place under the previous government in the LLBO and the LCBO, I think the specific request made by the critic for the Conservative Party is a reasonable one. As members of this Legislature, we put all kinds of requests for information in Orders and Notices. Where those kinds of allegations are made by your own members, who are now in government, there is a moral obligation on the government to pursue them and to determine whether the allegations are correct or false. I do not think that is unreasonable at all. I suggest the request should be proceeded with and a report made on it.

Hon. Mr. Kwinter: The questions put in Orders and Notices are questions of substance that, because of their detail and length, it is inappropriate to ask in the House. However, I do not think it is appropriate to ask a question that has to do with one person's allegations. You would never see a question such as that in Orders and Notices. You would see a question such as that in the House.

Mr. Swart: The question has been in the House.

Hon. Mr. Kwinter: I am suggesting the question should be asked of the Premier. He is the one who made the allegations. In fact, they were made before I was a minister, and I do not think I should be defending or responding to the Premier's allegations. If there is a question about that, it should be asked of him.

Mr. Swart: Are you saying that if this question is asked in the House, you will then investigate it?

Hon. Mr. Kwinter: I am saying that if a person or persons who are a party to that allegation feel aggrieved and ask me to do something about it, I will do what I can. That is where it is.

Mr. Swart: I assume that is a commitment to do that, because the critic for the official opposition feels aggrieved.

Hon. Mr. Kwinter: I do not see how he can be aggrieved when he is not a party to the incident.

Mr. Runciman: I feel personally aggrieved that a charge was made during the time I was the minister; I feel aggrieved in that sense. I was there very briefly, but I think the charge was made not by an ordinary member, if you will, but by the leader of the party, now the Premier of the province. Coming from the leader of the party, it takes on an added significance. All inspectors have been tarred with this allegation, and it has left a cloud over them, which this minister has done nothing to remove. He has left that allegation hanging out there, supported by remarks he made in the press that it is a corrupt organization, a crooked organization. I think that is shameful and there should be some apology.

Hon. Mr. Kwinter: I have never said that.

Mr. Runciman: You have suggested that the impression out there is that it is a corrupt organization. We have heard quotes from Mr. Drinkwalter from a Toronto Sun interview, which I put into the record in my initial statement, indicating the directions he received from you and saying there is a perception out there that this is a corrupt organization; go in and clean it out. That was the sole direction he received from you, according to that interview.

In any event, I have made my point, and I will–

Mr. Chairman: I have a question on that as well. The chairman has the opportunity to raise a question on occasion, as long as he does not dominate the proceedings.

Mr. D. R. Cooke: As I understand your answers, you have been the minister for almost 18 months and you have had no complaint from a liquor inspector that you are aware of.

Hon. Mr. Kwinter: No.

Mr. D. R. Cooke: I take it you are waiting to hear that complaint.

Hon. Mr. Kwinter: Yes.

Mr. Runciman: You have to be kidding.

Mr. D. R. Cooke: I also understand, Mr. Runciman, that you were the minister in charge of the ministry at the time the allegation was made.

Mr. Runciman: No; I am wrong. I was not at the time the allegation was made. It was during the election campaign, and shortly thereafter I became the minister.

Mr. D. R. Cooke: When you became minister, did you launch an investigation?

Mr. Runciman: I was there for only five and a half weeks. I had very little time to launch an investigation.

Mr. D. R. Cooke: However, you did not launch an investigation.

Mr. Runciman: No.

Mr. D. R. Cooke: When you had the power to do so.

Mr. Runciman: I did not make the allegation, and we knew it was unsubstantiated.

Mr. D. R. Cooke: You were the minister closer to the time the allegation was made than the present minister, and it was not a priority during all the time you were the minister.

Mr. Runciman: I do not think we would have had an opportunity to carry out an investigation of such a remark without the co-operation of the man making the allegation. You cannot pursue an allegation such as that without the co-operation of the individual making the allegation and the information available to that person on which he based that charge. I am not going to get into a question-and-answer session with this individual; this is not my position in this forum. But that is my view on it. I do not think we had the time, and we would not have had the co-operation of Mr. Peterson.

Mr. D. R. Cooke: You did not ever seek that co-operation.

16:10

Mr. Chairman: Would you direct them through the chair or you are out of order. You know that as well as I do, sir.

Mr. D. R. Cooke: I think the whole issue is becoming pertinent to when Mr. Runciman was the minister, and his predecessor, as opposed to the current minister.

Mr. Runciman: I disagree.

Mr. D. R. Cooke: I would also like to ask whether Mr. Runciman ever had a liquor inspector complain while he was the minister.

Mr. Chairman: All right. Mr. Cooke has raised the question of whether you ever had a liquor inspector complain to you while you were the minister.

Mr. Runciman: The answer, sir, is no.

Mr. D. R. Cooke: Thank you.

Mr. Chairman: I have some concern about the line of questioning that Mr. Runciman was raising in relation to the LCBO. Yesterday, in response to some of the comments raised by Mr. Runciman, the minister made some statements. I made a point of watching the film replay of this committee–which, by the way, is exciting viewing if you want to stay up and watch it. I made a point of watching it a second time, and I heard the minister for the third time make a number of comments–I am paraphrasing somewhat, but I made notes while he was saying it because this is the third time I have heard it in this committee–that one of the most common complaints he heard about the LCBO was that to get a job, you had to be a friend of the right party and that it was the private employment agency of the Conservative Party. That is a reasonably accurate quote, I believe, followed by the caveat: "I do not know whether that is true or not, but the perception is out there."

I would say to you, in all fairness, that by repeating the statement, as you have done on more than one occasion, that the most common complaint you have heard is that in order to get a job with the LCBO, you have to be a friend of the right party and that it is a private employment agency of the Conservative Party–

I can only tell you about my experience in the five years I was a member of the Legislature prior to the last election, but let me tell you that it was made abundantly clear to me that if I wanted to get someone employed by the LCBO–numerous applications come into my office for employment in various ministries, not the least of which is the liquor control board and the stores that are associated therewith, primarily because there are people who feel they would like that kind of steady job. It was normal practice for me to do one of two things: send a letter to the minister, not with an indication that I wanted political preference from him, but knowing full well that he would at that time forward the letter to the LCBO, which would make a decision with respect to that applicant.

However, it was made very clear to me, very clear–and I want to get this on the record–that no one was hired for a full-time job–this is contrary to some of the statements made in this committee–until he had the most substantial earnings as a part-time employee and had worked his way up through the system, in some instances over a long period of time.

I have had many people come to me virtually in tears who had been working part-time in a liquor store and who wanted me to use every degree of influence that I could to get them a full-time job. In every case–and I want this on the record–I indicated to them that the decision would be made without political influence by the liquor control board itself and by its hiring officers and its department, that it would be made on the basis of who was the most senior part-time person who had worked his way up through the lines of seniority and that this was the way those decisions were made.

I was never the minister of that division, but I want to associate myself with my colleague's remarks. If you do not know whether these

remarks are correct or not, as you have said each time you have made them, it might be better not to make them in the first instance, because it is repeating a perception that is totally incorrect, in my view. I believe that perception to be totally unsubstantiated.

You may wish to respond.

Mr. Swart: This is making the committee partisan, is it not?

Mr. Chairman: I did not make the initial remark, Mr. Swart.

Hon. Mr. Kwinter: If I may respond briefly to that, one of the things I found very strange was that every employee of the LCBO in Ontario, whether he be a stock clerk up in Kapuskasing or wherever, had to be approved by order in council. These were lists that would come in to me as the minister, and I had to look at them and decide whether these people were to be employed. That lends itself to potential abuse. Whether or not there was abuse I am not prepared to say. I am talking about the perception.

That process, whereby a minister of the crown has to decide whether a stock clerk in Kapuskasing is to be employed or not employed, lends itself to potential abuse. By changing that procedure, we have taken any potential for abuse out of the system. These people will be employed through the Civil Service Commission, as anyone else who wants to work for the government is employed. There is no political influence. These people come and apply. If they are competent and capable and if there is a position available for them, they are hired on the basis of impartial selection criteria.

That is basically what we have done. This process attacks the perception. Whether the problem is real or imagined, if the perception is there it is a reality. We have eliminated that.

Mr. Swart: We can go on with these generalities for a great deal of time, but the critic for the Progressive Conservative Party made a specific request that I think should be honoured.

My experience in the Niagara Peninsula has been substantially different from your experience, Mr. Chairman. I can name the person in the Niagara Peninsula, although I do not think it is necessary, because everybody there knows him. He was the senior Conservative official. Anybody who wanted a job in the LCBO or in the LLBO had to go to see him.

I am not interested in pursuing that at this time. There is one thing I would like to raise under this heading. I am not sure whether the Conservative critic is now finished with this.

Mr. Runciman: I have a couple more quick questions on the LLBO. I guess Mr. Drinkwalter's term is for only one year. Is that accurate?

Hon. Mr. Kwinter: It is a one-year term.

Mr. Runciman: Is it your intent to renew that?

Hon. Mr. Kwinter: Yes, it is.

Mr. Runciman: Mr. Drinkwalter is not on a leave of absence from his previous occupation?

Hon. Mr. Kwinter: No.

Mr. Runciman: Are you familiar with the plans to move the LLBO offices to a new location? What steps are being taken?

Hon. Mr. Kwinter: It is certainly under investigation. One of the problems we have is that we require more space. That issue is being investigated, but there has not been any determination on it.

Mr. Runciman: Does this policy of bringing employees into the public service apply to the LLBO as well as to the LCBO? You may have been intending to comment on that. Is it your intention to bring them into the public service?

Hon. Mr. Kwinter: Yes.

Miss Gibbons: The LCBO is a schedule 2 agency. The LLBO is a schedule 1 anomalous agency, and there have been some discussions between the board and the ministry staff about whether this would be a reasonable undertaking. The union has been involved in those discussions as well. No fixed decision has been taken at this point. Before a fixed decision is taken, of course, it would go up through the minister and over to the board, who will look at all the implications of doing that.

Mr. Runciman: Why are you moving in that direction?

Miss Gibbons: In a way, it is to examine whether there is a reason to change the status of the LLBO, which, as I say, is an anomalous organization. It is governed by the Manual of Administration, as are many schedule 1 agencies, but unlike many other schedule 1 agencies the staff of the agency are not civil servants. We are looking at whether there are some advantages for the staff to be captured truly within the category of a schedule 1 agency. There has been no decision to this point.

Mr. Runciman: I have a couple of final questions on the LLBO and about Mr. Keyes's problems in being charged with a violation of a regulation. Have your officials taken a look at that regulation? He raised the question that it was unclear and that he could perhaps successfully

defend himself against the charge. Have you looked at that? Are you going to propose any amendments to that regulation?

16:20

Hon. Mr. Kwinter: This is something I hope will be covered by the advisory committee on liquor regulation which has been out and has not reported to me yet. This is the sort of thing it is looking at.

Mr. Runciman: Are you saying that since this matter has arisen you have not discussed it with your officials or given it any consideration?

Hon. Mr. Kwinter: No; I am saying that because the matter has arisen they will be addressing it. They are addressing a whole range of concerns such as that. It will be part of their recommendations.

Mr. Runciman: You are saying that it is only because Mr. Keyes was charged with this regulation that you are–

Hon. Mr. Kwinter: No; what is happening is that every time something such as this comes up–I will give you another example that may not be of a similar nature in your perception, but you will recall the famous umbrella incident of a year ago last summer. Had that incident not happened, there probably would not have been anyone addressing that problem. As the old adage says, "If it ain't broken, don't fix it." However, when you do find something that is a problem you address it. The committee will address the situation in which Mr. Keyes was involved. It will make a recommendation along with the other recommendations it will make.

Mr. Runciman: I have a final question. I have information about a fellow by the name of Silvestri who drowned after diving into the water in August 1986 in Lake Ontario.

Hon. Mr. Kwinter: Yes, he was the captain of the Southern Star.

Mr. Runciman: He was the captain of the boat. An inquest found the boat was overloaded with passengers and liquor regulations were not enforced. This gentleman was the third Metro victim to drown from a charter boat since 1984. How have you responded to that?

Hon. Mr. Kwinter: You are getting into an area in which I have some expertise. As you know, I am a former chairman of the Toronto Harbour Commissioners. The regulation of the boats is under the jurisdiction of the coast guard or of the marine unit of the Metro police. It is not, per se, a liquor-related incident. What is happening is that, notwithstanding it is on a boat, it is comparable to any venue where someone gets a liquor licence. As long as the licence is there and is valid, if there is an accident it is not the fault of the liquor licence; it is the fault of whatever else has happened.

When it comes to the boats in the harbour, it is under active investigation by the Metropolitan Toronto Police, the Toronto Harbour Commissioners and the Canadian Coast Guard. There has been a proliferation of cruise boats and charter boats in the Toronto harbour. If you know anything about it, you will know that in the past two or three years they have multiplied many fold. I expect there will be much more stringent regulations and policing in the harbour to make sure things such as that do not happen.

For Mr. Silvestri, who knows whether that could ever have been prevented? It was one of those things where he went in and violated the first rule of lifesaving: you never personally go into the water; you throw in a life-assist aid or something of that kind.

Mr. Runciman: That is all I have on the LLBO.

Mr. Chairman: Can we go to Mr. Swart? If we can, we are going to wrap up any discussion on the LLBO and LCBO in this grouping.

Mr. Swart: I want to bring to the attention of the minister a letter I have received from Brian Nash, chairman of the Ontario Grape Growers' Marketing Board, relative to the marketing board's concern about the proposed penetration of our wine market by California wineries. Have you received a copy of this letter?

Miss Gibbons: What is the date on it?

Mr. Swart: The date on the letter is December 9. It came into my office yesterday.

In any event, as I have stated, the California wineries have announced they are going to put on a major push to penetrate the Ontario market. I realize the answers to these things are not easy, but the chairman of this group said it lost market share because they were priced too high and French and Italian wines were coming in so cheap. He said: "That is going to change. We are sharpening our pencils and want to penetrate this market." If you read the article and the letter, there is no question that they are going to make a determined thrust, I assume with substantial price-cutting, to get into the Ontario market.

I bring it to your attention because you are aware of the serious situation that has existed in the grape-growing industry and the wine industry, particularly for the past two years, and of the fact that, as you mentioned, we have come back

substantially in the percentage of wine sales that are domestic. Given the power of this group, the fact that we are apparently talking about 450 wineries in this area and with the money and power they have, I am afraid that if they determine to come in and capture a substantial share of the Ontario market, they probably will be able to do it if nothing is done.

You obviously have not seen the letter yet. I suggest that some action should be taken rather quickly through negotiations, at least with the Ontario Grape Growers' Marketing Board, the Canadian Wine Institute and the wine institute or comparable organization in California to try to work out some agreement so that they do not come in and overwhelm our local wineries and growers here. They are undoubtedly the most powerful organization that could try to penetrate our market, if they are determined to do it. Our own growers and wineries are going to suffer.

Hon. Mr. Kwinter: The critic for the New Democratic Party will know we have implemented the Niagara accord. We have put forward a pricing structure that has benefited the Ontario grape growers and the wine industry. As a result of that, we now have 51 per cent share. We will be ever vigilant to try to protect the industry as much as we can, given our obligations as a trading nation and the problems we have with both the General Agreement on Tariffs and Trade and the agreement with the United States, which is ongoing. The members of the wine institute and the wine industry are in constant touch with us and we are receptive to anything we can do to help them. We have been doing it at that level and also in our support program for their grapes.

Mr. Swart: With the free trade talks, I think we have reason to have some concerns about this proposal. Therefore, I bring it to your attention. I hope you will pursue it and get back to the members of this committee–I certainly want to hear–within a reasonable time to tell us what steps can be taken.

Hon. Mr. Kwinter: I give you my assurance we will pursue it.

The Acting Chairman (Mr. Partington): I have three or four questions for you. I was prepared to present them as a member, and although I am now acting as chairman I still wish to present them. The Ontario Wine and Grape Industry Task Force report was submitted by the Wine Council of Ontario to the Ontario government. It is dated November 1986. There are several recommendations. One is the elimination of the freeze on winery-operated ministores. Will you eliminate the freeze?

Hon. Mr. Kwinter: I cannot tell you what we are going to do about that report. I assume you are talking about the Tanner report.

The Acting Chairman: Yes.

Hon. Mr. Kwinter: The report has been received. We are responding to it and we will respond to the recommendations.

The Acting Chairman: I have questions with respect to the freeze, and any move to permit winery retail stores located at wineries and in tourist areas to open Sundays and holidays, as well as the selling of additional wine-related items, including prepackaged foods, at winery stores.

Hon. Mr. Kwinter: We are looking at all those recommendations and will be responding to them.

The Acting Chairman: When is there likely to be a response?

Miss Gibbons: I think you are referring to the wine council response to the Tanner task force.

16:30

The Acting Chairman: Yes, that is right.

Miss Gibbons: We have just received that response and it will become part of the total government response to the Tanner task force report. It will get fed into the mill and will be the subject of an interministerial working group that will sort out which of the recommendations we are prepared to make to the minister and to the Minister of Agriculture and Food (Mr. Riddell) and from there to cabinet. As a basic thrust, we will be looking at any measure that will help us to improve the competitiveness of the Ontario wine industry, including grapes and wine.

The Acting Chairman: Is there any idea of the timetable for the minister to report?

Miss Gibbons: I would hate to lock myself into a time frame, but it is my sense from my last meeting with the deputy in the Ministry of Agriculture and Food that we were looking for a first response from the committee in late January.

Dr. Feinberg: I think that is a bit optimistic but it will certainly be early in the new year.

Mr. Runciman: I was called by some people in Ottawa who indicated that employees of the LCBO have been told that bilingualism is now a requisite for employment with the LCBO in the Ottawa area. Is that accurate?

Hon. Mr. Kwinter: I do not have an answer to that. Perhaps Mr. Ackroyd will respond.

Mr. Ackroyd: I cannot address the question in relation specifically to Ottawa, but we have had a

meeting regarding the legislation for the expansion in the three-year time frame and we are reviewing all the additional areas where we have to provide bilingual service. Ottawa is an area where we have to provide bilingual service and it is quite possible that we will be looking for and training people who are bilingual, but I do not know of any specific directive that a person must be bilingual.

Mr. Runciman: I would like to hear Mr. Ackroyd's views on how he will approach this. I guess you are trying to comply with the provisions of Bill 8. Are you approaching this by saying that anyone who wishes to be employed in Ottawa, Cornwall or any other designated area will require facility in both languages?

Mr. Ackroyd: We have not specifically stated that. We had Mr. Bourassa at our executive directors' meeting last Thursday. He gave us a full presentation of what we will be required to do within the three-year time frame of the legislation. Our vice-president of human resources has taken that report and is looking at the strategy of how we will provide that service. As I understand it, in Metropolitan Toronto, for instance, the legislation does not require that every store provide bilingual service, but you have to take a designated area and indicate the store in that area that requires bilingual service. We will have to put together a plan on how we comply with the legislation over the next three years.

Mr. Runciman: What is your gut feeling at this stage? Do you think it is reasonable that in the future anyone hired by the board in these areas, Ottawa and Cornwall specifically, should have facility in both languages?

Mr. Ackroyd: The only way one can answer that and say it is reasonable is if this is the only way you can reach your goal within the time frame of three years. Ottawa has been a bilingual area for some time. I have not researched that, but–

Miss Gibbons: It would be living with the spirit and intent of the policy if we provide bilingual services in all the areas of Ontario that are so designated. The new policy will apply to Mr. Ackroyd's area. We will be putting together an implementation plan complete with designating positions within the structure that should be bilingual. I use that about functional positions as opposed to discrete positions, so that the capacity is in a position category rather than in a specific position. I believe Ottawa has been designated for quite some time under the Manual of Administration but that will not have captured this organization because it is a schedule 2 agency.

Mr. Runciman: I have been advised by people in the Ottawa area that to be considered for employment by the board in the Ottawa area it now is a requisite that you have facility in both languages. I am trying to determine whether you or the chairman of the board feels that is an appropriate way to go. It seems to me that if you have to provide a service in both languages, that is quite different from requiring every employee of the board to speak both languages.

Miss Gibbons: Absolutely.

Mr. Runciman: I have an awful lot of difficulty with the idea that you are going to be, if indeed you are going to be, creating some sort of élite in that area. I have a great deal of difficulty with the idea that to be considered to retain a job within the board in one of these designated areas, you have to speak both languages. It has been a major concern of many people within the broader public service in eastern Ontario. I would like to know your views on it. I do not think it is inappropriate for me to be asking the minister, the deputy minister and the chairman of the board how they feel they should be proceeding.

Miss Gibbons: Proceeding with the legislation will be a very detailed planning process that we will be submitting between now and the end of the fiscal year. The intention will be to have bilingual capacity in those areas designated bilingual. Not everybody in all those areas will necessarily be able to be recruited. You may need to train some of them in terms of developing a francophone capacity. No one will lose his job because he cannot speak French, but if you make a decision that X positions within a store have to be French to deliver your service in French, then it would not be unusual to advertise a vacancy as "Francophone required," or you would not be meeting the spirit of the legislation. You may have five unilingual English-speaking persons but to do your over-the-counter service you will need somebody who speaks French.

Mr. Runciman: Are you suggesting that anyone who provides counter service is going to have to be bilingual rather than having someone in the store you can call upon?

Miss Gibbons: What I am suggesting is–

Mr. Runciman: The chairman is saying that to meet the requirements of Bill 8 within three years, everyone they hire is going to have to be bilingual.

Miss Gibbons: I did not hear him say that. In certain areas of the province that may be so. You

may need to recruit only unilingual people because, for example, in places such as Hearst there is a marginal number of English-speaking people to draw from. It is a primarily francophone community. The spirit and intent is to deliver service to the French-speaking community in a language that is unique to it.

Mr. Runciman: Bill 8 went through without a ripple, but in many parts of eastern Ontario we are going to be monitoring the implementation of this within your ministry, and certainly within the LCBO which is in a high-profile position with the public. The concerns are there and I want to put my own concerns on the record. According to officials in Ottawa, apparently the policy is that it now is a requisite to have facility in both languages. I think that is wrong. I think you should be looking at providing the service, but to require all future employees for some indefinite time to have both languages is wrong. It is going to create all kinds of problems. You are going to be hearing more from me on it in the future, if that is the direction you intend to take.

Mr. Swart: I want to say on behalf of myself and my party that we fully support the proposal that within a given period of time the services be offered in both our official languages in those areas of the province that have been designated. The city of Welland is one area where we need francophone service. I can understand that in some areas it may mean that for a time you are going to have to hire bilingual people. You will have to exclude others from employment during that time if you want to get up to the level necessary to provide that service. I support the proposal for that to take place.

I hope, Miss Gibbons, you indicated that not only in hiring but also in training–I know that was barely mentioned–there would be the opportunity, and I ask whether that opportunity will be there, for people to become bilingual within that two-year period. Perhaps that should be the highest priority.

16:40

Mr. Runciman: You have not done it in two years.

Mr. Swart: No, I have not, but I am working on it.

Mr. Runciman: We both have the same tutor.

Mr. Swart: Yes, I know. You have just started.

Mr. Runciman: It cannot be done in two years, to be realistic.

Mr. Swart: I want to make it clear I support that policy and whatever measures are necessary, with priority being given to training the people who are there. I will endorse that policy.

The Acting Chairman: Thank you, Mr. Swart. Mr. Ackroyd, thank you.

Mr. Runciman: I do not want Mr. Ackroyd to leave; I have a few more questions for him. I would like to know whether he read the task force report from the Progressive Conservative Party that was completed in 1985. It made some reference to the board's operations.

Mr. Ackroyd: I do not recall the specific task force. What are you referring to?

Mr. Runciman: Some of the recommendations we made dealing with the LCBO were an expansion of the agency store concept. We felt that as an initial step you should be looking at the areas that are trailered now and installing agency stores in those areas instead of providing a service for three or four months of the year. Is any consideration being given to an expansion of agency stores throughout the province?

The Acting Chairman: Excuse me, Mr. Runciman. Perhaps you should be directing your questions to the minister and, if necessary, Mr. Ackroyd can assist him.

Hon. Mr. Kwinter: We are looking at the whole area of agency store operation. The policy people are working on a submission that is to address the whole question of the delivery of beverage alcohol in Ontario and whether there should be an amplification of the agency store concept and things of that kind. How far are we from getting that?

Miss Gibbons: I hate to drag Dr. Feinberg's agenda through these discussions, but my sense is that, again, it will be early in the new year. She has just said to me it will be January 15, 1987.

Mr. Runciman: What will January 15 be?

Hon. Mr. Kwinter: On January 15, 1987, we will have a policy report delivered to me for consideration on how to address the existing agency stores and whether there is any reason to expand them and how it should be done. That whole area will be addressed.

Mr. Runciman: Is that the only element of this report that you will be receiving?

Hon. Mr. Kwinter: It is the only part of that one. That is a specific report on agency stores.

No? What else do you have in there?

Miss Gibbons: The report is a touch broader. It will be providing you with some information about ways in which one might approach broadening convenience for the consumption of

alcohol. A significant piece of that is the option called agency stores.

Mr. Runciman: Is another piece of that off-premise sales?

Miss Gibbon: When you are looking at a whole range of alternatives I suggest that everything is in the bag as part of the early discussions with the minister, after which we will hear what should stay and what should go for further policy work.

Mr. Runciman: Mr. Chairman, would it be appropriate to ask the chairman of the board how he feels about the concept of off-premise sales?

Hon. Mr. Kwinter: Sure; go ahead.

Mr. Ackroyd: I would be more in favour of the agency store concept than off-premise sales. That is a personal opinion. I know they do both in British Columbia, for instance, and I cannot say that is wrong.

Mr. Runciman: In Alberta too, I think.

Mr. Ackroyd: I cannot answer. I know British Columbia does. However, I would think that in looking at one of the best ways to improve service in Ontario for availability of beverage alcohol, it is the agency store program. That is my personal opinion.

Mr. Runciman: I agree, and so did our task force, as a matter of fact.

While the chairman is here, I want to ask one other question about hours of operation. That is another thing we had expressed some concern about: making sure the stores were open during convenient times for consumers. I personally expressed a concern about some of the stores in rural areas. I made a complaint about a store in my own riding that was closing during the lunch hour so that the operator and his wife, who were both working in the facility, could go home, have their lunch and then come back. I registered a complaint and that has been rectified. I wonder how you are addressing the whole question of hours of operation.

Hon. Mr. Kwinter: We are addressing it in two different ways because there are two different items. That is one of the key topics the Ontario Advisory Committee on Liquor Regulation was looking at. That dealt with licensed premises and the hours of operation. That is something it will be recommending. The other aspect, as far as the LCBO is concerned, will be addressed in the report that is coming forward. That is included in it.

Mr. Runciman: Okay. I have one final question. You were contacted by the Ontario Liquor Boards Employees' Union about the future of LCBO duty-free liquor stores at Lester B. Pearson International Airport. What is happening there?

Hon. Mr. Kwinter: At present nothing is happening. The situation is that it is a federal jurisdiction. We, as the jurisdiction responsible for licensing the premises, because we have control over the monopoly situation, are there to facilitate it, depending on what the federal government wants to do. If they are going to include it in a total duty-free operation that is something we will have to respond to. I have a statement I can put into the record that will tell you exactly where we are.

The government and the LCBO were approached by Allders International (Canada) Ltd. several months ago for permission to take over and consolidate liquor sales with other duty-free items. It is their contention that one-stop shopping will lead to an increase in duty-free liquor sales. One-stop shopping will allow a traveller time to place a complete order with one sales clerk. Acceptance of credit cards by the private sector may also increase sales.

We do not know, however, where Allders got its sales figures. It has not shared its estimates with the LCBO. I have been advised by my officials that the comments regarding out-of-stock positions were discussed with the store manager. He advised that the stock availability is good. They have experienced some out-of-stock positions from time to time, which is normal in any retail operation. The number of brands offered is restricted because of the limited storage space made available by the Department of Transport. I have been further advised that the number of LCBO staff currently at Pearson International are 43 permanent and 31 temporary personnel, for a total of 74.

If we are going to respond directly to the Allders situation, if the decision is made–and this will have to be a joint decision, in the same way as, I am sure you are aware, that on our new program to provide duty-free drive-in centres across the province–all these would be put out to public tender once the basic policy decision had been made. It would not be a matter of one person coming in and saying: "Here is a proposal. I can do it better than you can, and this is why I want it." It would be put out to public tender, and the criteria for the tender process would be established in conjunction with the federal Department of Transport and the LCBO.

Mr. Runciman: Do you have a personal view on where you would like to see it go? Is your inclination towards that route?

Hon. Mr. Kwinter: I have no personal view on it at all. We have made the determination at drive-in entry points. I see no reason that it should be there and not also in an airport. We did this other program in conjunction with the federal government, with the Department of National Revenue and the Department of Transport. If that is their wish, we will co-operate with them.

16:50

Mr. Runciman: There is a difference here because you are dealing with an LCBO outlet. You have not been in the other areas; you have been dealing with duty-free stores. Here you are perhaps going to have a very negative impact on close to 80 LCBO employees. That possibility exists.

Hon. Mr. Kwinter: There is nothing to prevent those employees from being looked after without addressing this particular issue. I do not have a preconceived idea. It may be the best way to go. If that is the case, I do not think the sole consideration is what is going to happen to those employees as long as they can be looked after and reallocated to other areas. It is something I have a totally open mind about.

Miss Gibbons: In chatting about it with Mr. Ackroyd some days ago, I learned it was his sense that, if a decision were taken to go to an integrated duty-free shop for the convenience and efficiency of the system, he had no worry that staff could be adequately looked after within his own organization.

Mr. Ackroyd: That would be my intention.

Mr. Rowe: Have you found a lot of licensed establishments in Ontario discussing with your ministry or with the board the idea of off-premise sales vis-à-vis offsetting the hard times that a lot of licensed establishments are experiencing now and as another way to serve the public better with respect to alcoholic beverages?

Hon. Mr. Kwinter: Representations have been made to us by the Ontario Hotel and Motel Association, which is very firmly supportive of off-premises sales. Its members see this as their salvation. The people who would be most directly affected from a dispensing point of view are totally in favour of it.

Mr. Rowe: What about the major breweries?

Hon. Mr. Kwinter: I do not think we have had any representations from the breweries.

Mr. Rowe: It is interesting to discuss with the breweries the concept of off-premises sales and possibly distributing one way or another through warehouses versus the idea of corner store delivery. Have you had any input from them on that?

Hon. Mr. Kwinter: No. I have been to British Columbia and seen how the operations work in the pubs that have off-premises facilities.

I have had representations from the hotel and motel industry. I do not recall the breweries making any representations to us about that.

Mr. Bossy: It was a breath of fresh air when the announcement was made concerning the changes in hiring practices. One of the first things that happened after I became a member was that I was approached by the manager of the liquor store to submit a list of people I would like to have work during the Christmas holidays. I made it very clear I would never do that. I have not had that request this year, but last year one of the first things asked of me was to provide a list. The former member always did that. Apparently, that was the previous practice in my riding. How prevalent it was across the province I do not know.

Hon. Mr. Kwinter: I would like to read into the record a letter that was sent out to all employees of the retail division by R. J. Flett, vice-president of the retail division, on December 4:

"I am sure you are aware from reports in the media that the current government has clearly instructed the LCBO that under no circumstances should political patronage play a part in hiring practices. We have heavily committed resources to ensure that the selection process for hiring and promotion is based on the collective agreement for those positions affected and on qualifications and merit for nonunion positions.

"Concerns have recently been expressed that the hiring of casuals provides an opportunity for patronage to occur. Please understand that under no circumstances is patronage condoned, nor will it be tolerated. If you are requested to employ casuals based on patronage and are uncomfortable dealing with the situation, please refer the matter to your regional director for resolution.

"If you require any further clarification pertaining to this matter, please contact your regional director."

It is signed by R. J. Flett, vice-president of the retail division.

I hope that will satisfy members here that this is the intent, and we hope we will get to the point where all the employment practices are even-handed and impartial.

Mr. Bossy: Thank God.

Mr. Swart: Going on to another subject, the Ontario Racing Commission, I defer to my colleague the member for Beaches-Woodbine.

Ms. Bryden: Thank you. I want to discuss with the minister the principles under which this government-appointed body, the Ontario Racing Commission, appears to have been operated in the past and is still operating under the present government. My series of questions is with respect to whether he agrees with the principles that a regulatory agency appointed by the government should follow.

For example, do you not agree that a regulatory agency should represent not only the industry regulated but also the interests of those affected seriously by the regulations made in respect to that industry?

Hon. Mr. Kwinter: Do you want me to answer these questions as you go along?

Ms. Bryden: Yes.

Hon. Mr. Kwinter: That is a question similar to, "Do you still beat your wife?" If you had asked me that, without knowing the background and the context, I would say, "Yes, I think any regulatory agency should serve all the people in Ontario and should service all their needs." I do not think anyone would question that.

The problem I have is that, knowing the context of the question and what you are getting at, I have to say there are certain agencies that are appointed to do very specific things. In doing those, they may not serve all the people and service all the requirements, because by the very nature of their mandate, they are not required to do so.

To speak for a bit on the subject at hand, there has been criticism, primarily from you, of the Ontario Racing Commission, of what it is doing and of the fact that the minister and the government have been remiss in appointing a commission to look after the interests of the horse-racing industry and have appointed only people who know about the horse-racing industry. It has been said that there should be members of the public on the commission as well and that the commission does not take into account the needs, aspirations and concerns of people other than those it has been appointed to regulate.

I have used the analogy before. There is a problem with the Greenwood Race Track, and I am the first to admit there is one. All I am suggesting is that I think you are going to the wrong group to address that problem.

Ms. Bryden: Do not tell me you suggest they should go to the municipality. The municipality does not have the power to ban Sunday racing, and that is the only solution that is possible to their problem, which is Sunday pollution, community pollution in their area.

They have had a free Sunday for more than 100 years, and the only way they can keep that free Sunday, or get it back, is for the Ontario government to say that Sunday racing at Greenwood Race Track–and only at Greenwood Race Track, because it is a special, unique situation–is not to be allowed because it causes great disruption to the community.

Why should there not be a special position for a racetrack of that sort in the same way as we make provision for controlling environmental damage from industry? We say they cannot pollute the water, the air or the soil; we outlaw that. In the same way, I think the people affected by the Greenwood Race Track have a right to have the pollution of their community life on Sunday outlawed. Do you not agree there is a special case here?

17:00

Hon. Mr. Kwinter: No. I am sympathetic to their concerns but I do not agree there is a special case. Let me play the devil's advocate and tell you the other side of the story. The members of the New Democratic Party are usually supportive of labour. We have an industry that supports 43,000 jobs in Ontario and that is under severe economic pressure. In Toronto alone, we have one racetrack remaining. We have lost Long Branch, Thorncliffe and Dufferin.

Ms. Bryden: The Ontario Jockey Club bought those and closed them down so it has only Woodbine and Greenwood to operate at. There is lots of room at Woodbine; they do not have to put it all into Greenwood. They could have kept some of those other racetracks open too if they had wanted to provide opportunities for racing.

Hon. Mr. Kwinter: I am suggesting they are under severe economic constraints. What happens is that when you want to establish a racetrack it is the classic problem of confrontation. I hate to keep drawing on my experience but it is the only thing I have to draw on. We have a situation where we have the waterfront; in the minds of most people, if they wanted to show the sleaziest part of town, where the most disreputable people turned up, they showed the waterfront. Today, if you look at the old B movies, you see these murky, black scenes of disreputable people down on the waterfront. That is where industry went. It gave them transportation and it gave them relatively inexpensive land because that was the least desirable place.

We have a situation in Toronto, to give you an example, where Redpath Sugars went and built an incredible facility and invested hundreds of millions of dollars in that facility. They were doing their business as good corporate citizens. The ships come in and unload raw sugar. It gets refined and shipped out. We now have a situation where, because of the advance of our lifestyles, the waterfront has become a very desirable place to live. What happens? The high-rises are going up and now people are complaining that Redpath Sugars is a very undesirable neighbour. There is a smell of molasses and a residue that comes out of this thing and covers all their cars. They are saying, "What are you going to do about getting rid of Redpath Sugars?"

Ms. Bryden: That is an environmental problem you should be looking at, but let us talk about Greenwood. We are not talking about Redpath; we are talking about Greenwood.

Hon. Mr. Kwinter: I am just using that as an example.

Ms. Bryden: There is a community there that also has rights. It should not just be the right of the horse-racing industry to use that community.

Hon. Mr. Kwinter: Let me finish and then you can say whatever you want to say. We have a situation where someone decides he wants to establish a racetrack. They do not just plunk down a racetrack and start operating it. They have to go to the municipality and say, "We would like to establish a racetrack at Greenwood."

Ms. Bryden: No. This happened in 1875. Most of the people who are living there now were not there.

Hon. Mr. Kwinter: That is exactly the point I am making. They went to the municipality and the municipality said, "We have zoning bylaws and we will decide whether you can establish that racetrack."

Ms. Bryden: They had about 12 days of racing then.

Hon. Mr. Kwinter: The point is that they went there in good faith and legally and appropriately invested hundreds of millions of dollars to build that racetrack.

Ms. Bryden: They also invested hundreds of millions to buy up other racetracks that could have been used as well. You are supporting the Ontario Jockey Club and the Ontario Jockey Club's plans. They have not opened their books to us to show us whether they are losing money. They have not shown us they could go to Woodbine and have more revenue if they needed it. Is your commission looking into those economic aspects they are claiming, of loss of money at one racetrack as against another, and showing whether they do need to pollute the community seven days a week, which is what they are going to do?

Hon. Mr. Kwinter: The point is you say they pollute it six days a week and should not be allowed to pollute it seven days a week. I am suggesting to you that they are racetrack operators and that if the Ontario Racing Commission grants them racing dates, which it grants to every other racetrack in Ontario–

Ms. Bryden: They are individual for each racetrack.

Hon. Mr. Kwinter: No other racetrack is under a Sunday racing prohibition. There is none in Ontario.

Ms. Bryden: No, but back in 1965 the Ontario Jockey Club did agree not to race on Sundays.

Hon. Mr. Kwinter: We have a situation where nobody is objecting to the racing per se; they are objecting to the results of that racing. People are parking on their streets and there is traffic and noise. I used an analogy before and if you do not mind, I will use it again.

If, on a given day, you have a Stanley Cup playoff at Maple Leaf Gardens and the traffic spills over all the way down Yonge Street, all along College Street and all along Jarvis Street–

Ms. Bryden: That is not seven days a week.

Hon. Mr. Kwinter: That is not the point. The point I am making is that if that happens, you do not complain to the National Hockey League. You complain to the municipality and ask what it is going to do about it.

Ms. Bryden: No, you complain to the regulatory body. The municipality is not the regulatory body for horse racing.

Hon. Mr. Kwinter: The NHL is the regulatory body for hockey and it is creating the problem. I am saying it has no jurisdiction. The racing commission has no jurisdiction over anything outside of making sure the racing industry operates fairly and honestly in assigning dates. Anything else is not in its jurisdiction.

Ms. Bryden: We are taking the racing commission to court to establish that. That is a very narrow interpretation of its mandate. You should look at the fact that Bell Canada does not set new rates without advertising that members of the public can come and make their views known and often change things.

Hon. Mr. Kwinter: It is a monopoly and that is why it has to.

Ms. Bryden: All sorts of other regulatory bodies do that, including the Canadian Radio-television and Telecommunications Commission for television and the Ontario Energy Board. They do not operate without inviting the public to come to hear the proposals and then considering the desires of the public and how it affects people. This is not democratic government that the Ontario Racing Commission is giving us.

Hon. Mr. Kwinter: I am sympathetic to the concerns of the people in that area. You are going to court to resolve it and it is before the courts now. The point is, you are trying to get the racing commission to take on a jurisdictional problem that is not within its mandate. It has no right or power to decide the things you are asking it to decide. That is the problem. You think it is and you are going to court to get a decision. It is academic for us to be discussing this, because if the court says the racing commission has no jurisdiction and is totally within its right to grant racing dates, which is the point I put forward, then that is the end of it. I feel you should be addressing your concerns to the municipality.

Ms. Bryden: Would you tell me what it can do?

Hon. Mr. Kwinter: The municipality has jurisdiction over the streets, over parking and over access.

Ms. Bryden: It has already done everything in that area. The area is a tow-away zone. The police ticket vehicles parked in front of drive-ways. The chaos that is going to be caused by 10,000 people coming on Sundays, on top of all the other traffic in that community on Sundays, is something that only a ban on Sunday racing can stop, and the city cannot do that. You are just going up an alley.

Hon. Mr. Kwinter: With all due respect, I submit that if the racing commission were to ban it, the Ontario Jockey Club could challenge that in the courts and get it overturned.

Ms. Bryden: The residents might challenge in the courts the denial of their democratic rights under the Charter of Rights and Freedoms.

Hon. Mr. Kwinter: The Ontario Jockey Club is making legal, conforming use of that site. It has every right to operate there. The residents may be in dispute, and that is why I brought up the Redpath case. In that case people said, "When you started it was quite appropriate for you to be there, but now that we are here you are not making an appropriate use of that property."

Ms. Bryden: The number of racing days allowed by the Ontario Racing Commission and the federal government has gone up 10 times in the past 40 years.

Hon. Mr. Kwinter: There was an economic reason for doing that.

Ms. Bryden: Is economics the only thing? Do people not count as well?

Hon. Mr. Kwinter: Try telling that to the workers. Try telling that to the people who earn their livelihood in the racing industry.

Ms. Bryden: I am saying they could go out to Woodbine and have more racing and more jobs there.

17:10

Mr. Swart: Could I get in here on a supplementary? There is a real problem and as I understand it the problem exists because of the present laws. What we have is a situation where the racing commission apparently has no authority—and it has been challenged in court—to make planning decisions or to weigh the harm this does to the residents of an area with the needs or advantages to the track, and because of the situation the municipality has no power. If it were a new track coming in, they would have power. They could put conditions on it and one of them might be no racing on Sundays. They would have power under the Planning Act, but they do not have that power at present.

It seems to me it is a reasonable request on the part of my colleague that the legislation should be changed. I admit it is a unique racetrack in its location and it has been there for a length of time, but there should be some place provided in this whole mix where a board could weigh in balance the harm it does to the people of the area with the needs and advantages to the racing group. Whether there needs to be some change in provincial legislation that would give the racing commission the authority to hold hearings and to make decisions or whether that could be referred to some other group that could arbitrate on it, it seems to me a reasonable request. Because of the situation, it could be retroactive. I am not sure whether that could be or not. Maybe it could not be.

Do you not agree that in cases such as this there ought to be a decision-making body that could hear all sides and then weigh in balance the harm it may do to the people of the community versus the benefits that would accrue to the track? I think you will agree with me that at present it appears that is not possible; there is nobody who can do it. The municipality may be able to prohibit parking

on those streets on Sundays, but you and I know that is an unpractical answer. Where do they go to park?

However, as far as planning goes, at present the municipality has no power over determining whether it is desirable for the community to have racing there on a Sunday and the racing commission has no power, so we have this situation where the track can do as it likes, regardless of the effect on the residents of the area.

It seems to me there is some obligation on the government to make some changes so that arbitration process can exist. I do not suppose you have that in any other track in Ontario. I do not know. I am not familiar with all the tracks. My vice is stock-car racing, not horse racing.

I think the opportunity to weigh these aspects should be there. As my colleague says, it has changed so dramatically it is not the same industry that originally went there, if I can call it an industry. It is an industry that has expanded to the point where it has become a real nuisance to the people in that area on Sundays. I think you will agree with that. You have agreed with it. Should we not have some change in legislation to give the power to the commission?

Mr. Chairman: Can we move on this topic? I will allow the minister to respond, but I have a terribly long list of other things and other members who want to get involved. We have only 45 minutes left and I urge you to move along.

Ms. Bryden: I would like to draw to the minister's attention my private member's bill, which I introduced last Thursday. It suggests the sorts of changes the government could bring about in the legislation governing the racing commission and governing Greenwood Race Track and the community. I think that is worth looking at. Perhaps the government can adopt that bill and solve this problem. You can worry about the other ones downtown later. Please take a look at it.

Hon. Mr. Kwinter: To respond very briefly, it seems to me that if there is a proper forum to address this concern, probably the last place it should go is to the racing commission. The racing commission is a group of people who are there because of their knowledge of horse racing, to make sure the consumer, the person who goes to the track, has a fair shake, that it is run on a proper basis, that there are no illegal practices going on, things of that kind. To get into the kind of concerns you are addressing, we probably have a forum, the Ontario Municipal Board.

Ms. Bryden: No. It is not a municipal bylaw. The OMB does not have the power to ban Sunday racing or set dates.

Hon. Mr. Kwinter: I do not think it is a problem of banning racing. It is the same thing as Sunday openings. Racing is fine there six days a week.

Ms. Bryden: No. They would like much less racing, back to the old days when there was only a certain number of days.

Hon. Mr. Kwinter: You either have a racetrack or you do not. If they have a racetrack, they have every right to maximize their use of that racetrack. If it is creating a problem in the neighbourhood, then it is a zoning problem, a municipal problem. I think you are attacking it the wrong way. This is being argued before the courts, which will be making a determination.

Ms. Bryden: The other day, Mr. Curling quoted Henry Ford as saying, "The investment of capital should not be to make money but to make something that will be of value to the community."

Hon. Mr. Kwinter: Try making that argument to people who like horse racing.

Mrs. Marland: May I ask the minister why he was involved in the Ghermezians locating their megamall in Mississauga?

Hon. Mr. Kwinter: I am happy to respond. In my previous life, my business was real estate development. My specialty was dealing in shopping centres and commercial ventures. The Ghermezians contacted a financial organization in Toronto to indicate that they had an interest in locating in Ontario and that to do it they would require some help from the provincial government. They asked this financial organization what advice it could give them. I am paraphrasing and quoting because I was not there. They said, "If you are going to be talking about this kind of development, there is someone in the cabinet who has a great deal of experience and expertise in this field and he is the man you should be contacting."

At that point, this financial organization called me to tell me the Ghermezian brothers, whom I knew only by reputation, were interested in discussing a project for Ontario and to ask whether I would meet with them. At that point I suggested that I was not the appropriate minister, that it should be the Minister of Industry, Trade and Technology (Mr. O'Neil) because that was the kind of operation it was. The financial organization said, "Yes, they know that but they do not want to meet with that minister; they want

to meet with you because we told them that you had this so-called expertise." I said it had nothing whatsoever to do with my ministry, but if they wanted to meet with me I would be happy to talk to them.

At that point, they came to see me. They asked for a meeting with the Premier. We went to a much-heralded meeting, which was covered by the media, some time in August, to which all the brothers came. We went to see the Premier. At that point I suggested it would be more appropriately dealt with by the Minister of Industry, Trade and Technology. He said, "These people obviously want you to deal with it and I am asking you whether you will please look after it."

Mrs. Marland: Who said that?

Hon. Mr. Kwinter: The Premier.

Mrs. Marland: I do not think you have explained why you continued to pursue it.

Hon. Mr. Kwinter: I did not? What did I explain then?

Mrs. Marland: I asked you why you were involved and you started by saying because of your previous life and–

Hon. Mr. Kwinter: I told you exactly why I was involved.

Mrs. Marland: May I continue?

Hon. Mr. Kwinter: Sure.

17:20

Mrs. Marland: You said it was because of your previous life in real estate and because you had a lot of expertise in shopping malls. You then said you tried to tell the Ghermezians that it was not your ministry, and you have just said the Premier told you he wanted you to continue.

Did you discuss with the Premier that it should be the Ministry of Industry, Trade and Technology, and that even your staff might not have the expertise, apart from your expertise?

Hon. Mr. Kwinter: I just finished telling you that I discussed that with the Premier and he said, "I would like you to deal with the Ghermezians."

Mrs. Marland: Okay. What did it cost in terms of staff time of the Ministry of Consumer and Commercial Relations to give that kind of support and interest to that private enterprise proposal, including the trip to Edmonton? Who paid for the trip to Edmonton?

Hon. Mr. Kwinter: The staff time was minimal because we did not do anything other than facilitate it. All the work that was done on evaluating the proposal was done by the respective ministries that would normally deal with it: the Ministry of Industry, Trade and Technology, the Ministry of Treasury and Economics and the Ministry of Tourism and Recreation. It was all done by those ministries.

The only thing we did in our ministry was to co-ordinate the contact with the Ghermezians, who felt comfortable talking to me about it. All the developmental work and the analysis–anything that was done–was done by the appropriate ministry. None of it was done by the Ministry of Consumer and Commercial Relations, but the Ministry of Consumer and Commercial Relations did pick up the cost of my going to Edmonton to see the project.

Mrs. Marland: Did that not then fly in the face of the direction from the Premier? The Premier asked you to look after it, and now you tell me that staff of the Ministry of Industry, Trade and Technology and the Ministry of Tourism and Recreation did all the work. Did you direct the staff of those ministries?

Hon. Mr. Kwinter: No.

Mrs. Marland: Who did?

Hon. Mr. Kwinter: Those people in the ministry who were dealing with that aspect. Whatever had to be done was co-ordinated through my office but was done by the people in those ministries.

Mrs. Marland: Then you did not do what the Premier asked you to do.

Hon. Mr. Kwinter: That is your interpretation.

Mrs. Marland: No. I am asking you that.

Hon. Mr. Kwinter: I am telling you I was the contact person with the Ghermezians. Whenever they wanted to talk about any of their concerns or to get a reading of what was going on, they would contact me. I was the person they contacted, and my position was to maintain contact with them and discuss their problems; but the day-to-day analysis and evaluation of their proposals was done in whichever ministry was appropriate. Whichever ministry had the expertise to evaluate the proposal was the one that did it.

Mrs. Marland: Okay. Do you have any idea what has been spent on reviewing the Ghermezian proposal to establish a megamall in Ontario?

Hon. Mr. Kwinter: No, I do not.

Mrs. Marland: You have no idea what has been spent?

Hon. Mr. Kwinter: None whatsoever.

Mrs. Marland: Have you any interest in that?

Hon. Mr. Kwinter: None whatsoever.

Mrs. Marland: Even though you were made responsible for that investigation, you have no interest in knowing how much it cost?

Hon. Mr. Kwinter: I assume it was done expeditiously and economically.

Mrs. Marland: You do not feel any accountability for the costs incurred?

Hon. Mr. Kwinter: No.

Mrs. Marland: I am not saying whether it was a good or bad thing for the Ghermezians to be looking at Ontario, but if somebody were to ask the Premier how much was spent encouraging and courting the Ghermezian proposal for Ontario–how much was invested by the taxpayers of Ontario in this private sector proposal–who would the Premier turn to, since he had asked you to be responsible for it?

Hon. Mr. Kwinter: He would turn to me, and I would find out the information.

Mrs. Marland: Could I have that information?

Hon. Mr. Kwinter: We can see whether we can get that information for you.

Mrs. Marland: May I have that information?

Hon. Mr. Kwinter: I said we would see whether we can get that information for you.

Mrs. Marland: Okay. You are not telling me you will get it for me. You are saying you will see whether you can get it.

Hon. Mr. Kwinter: I will use my best efforts. How is that?

Mrs. Marland: I would like to know whether I can expect to have that information.

Hon. Mr. Kwinter: If you know anything in a legal term, "my best efforts" is a pretty good undertaking.

Mrs. Marland: I am not a lawyer, but I do not think you are either.

Hon. Mr. Kwinter: No.

Mrs. Marland: In terms of the role of either your ministry or the Ministry of Industry, Trade and Technology, can you give any other examples where anybody else has been treated the way the Ghermezians were treated?

Hon. Mr. Kwinter: You tell me how you think they were treated.

Mrs. Marland: I am asking the questions.

Hon. Mr. Kwinter: I know, but tell me how you think they were treated and I will tell you whether I think other people were treated that way.

Mrs. Marland: For example, you hosted a meeting in Mississauga for this private sector proposal. I was not invited to that meeting, although another member of the Legislative Assembly was at that meeting in Mississauga, and the city council and the mayor. Because I was not there, I am not sure of all the details that were discussed at that meeting, but from the accounts in the media, in your ministry or the other ministries–and at this point, I do not know who was responsible–there were lots of discussions about areas of funding you were considering for the Ghermezian brothers. Is it normal that you would consider enhancing their interest in Ontario by the proposals that were reported in the newspaper?

Hon. Mr. Kwinter: If I can, let me put it into its proper context. I am not trying to give you a tough time. We are considering the estimates of the Ministry of Consumer and Commercial Relations. The only part of those estimates that should be of any concern to you, if you want to question it, is why my ministry paid for me to go to Edmonton to see a mall. In anything else that went on prior to that, as I say, there were no financial implications other than what we were facilitating in the way of someone wanting to bring economic development to Ontario.

Had we thrown them out the door, you and members of your party would be standing up and saying: "Here is a multibillion-dollar project and someone who wanted to bring it to Ontario. What did you do about it?" I recall the leader of your party standing up talking about Toyota and all these other companies that were coming here and saying, "What did you do, Minister, to encourage these people to come here to create all this economic activity and jobs and everything else?"

If someone comes to Ontario and says, "We are going to bring a project and it is going to create 40,000 jobs, so many hundreds of man-years of construction and all these great things," surely we have an obligation at least to look at it. That does not mean we will do anything for them, but we surely have an obligation to look at it.

When that project was presented to us, all you had to do was follow the press; it carried the story for a year. It was no secret that this was going on, contrary to what you seem to imply. What was secret and what we had no knowledge of was where they were going. In all the discussions with them, we said, "We are not prepared to consider anything."

There is adequate precedent. When it was in power, your party contributed a major portion to the development of Yorkdale in the interchange that was provided there. It did the same thing for Sherway Gardens. There is a lot of precedent for doing something in this case. The only thing that happened was that in my discussions with them, I

said, "Until we have a site-specific proposal so that we know exactly where it is going, how do we know what it is you are asking us to do?"

I also said, and it was widely quoted, "If you go into the Golden Horseshoe of Toronto, we will treat it very differently from a proposal to go up to Kapuskasing." Obviously, if someone were to bring that kind of development to an economically depressed area or an area where there would be some great employment benefits, we would treat it differently. Until we had that site-specific proposal, all we could do was talk in generalities.

Mrs. Marland: You had a site-specific proposal when you had the meeting in Mississauga.

Hon. Mr. Kwinter: Yes.

Mrs. Marland: And that was a secret meeting.

Hon. Mr. Kwinter: It could not have been very secret if the press covered it.

Mrs. Marland: The press covered it after the fact. The press was not at the meeting.

Hon. Mr. Kwinter: They were not invited in, but they were standing outside the door; so it was not a secret meeting. It was a confidential meeting.

Mrs. Marland: Is that not interesting? You told the people who were invited that the meeting was not to be discussed beforehand.

Hon. Mr. Kwinter: That is correct.

Mrs. Marland: In any case, can you explain why I, as a member for Mississauga, was not invited to that meeting?

Hon. Mr. Kwinter: Because it was not that kind of meeting.

Mrs. Marland: What kind of meeting?

Hon. Mr. Kwinter: So you will know what the meeting was about–

Mrs. Marland: It was not what kind of meeting?

Hon. Mr. Kwinter: It was not a public meeting.

Mrs. Marland: That is right.

Hon. Mr. Kwinter: That is why you were not invited. It is something your party has not come to terms with. You are not the government. It is as simple as that. You are not the government and you seem to have forgotten that you are not the government. This was not a public meeting.

17:30

Mrs. Marland: Was it a secret meeting?

Hon. Mr. Kwinter: It was a confidential meeting. It was not a secret. We have meetings all the time where people are not invited in off the street.

Mrs. Marland: As an elected member of the Legislative Assembly, am I off the street?

Hon. Mr. Kwinter: In this case, it was not a public meeting. It was a meeting between some principals and a city council executive that had to get some information. They were going to be committing some money. I had an obligation to this council to let it know where we were so it could make a decision about whether to commit that money. We were talking about $100,000 for a study by the city of Mississauga.

Mrs. Marland: Not at that time.

Hon. Mr. Kwinter: Right at that time; exactly at that time. That was the purpose of the meeting.

Mrs. Marland: Perhaps you can explain to me–

Mr. Chairman: I am going to have to make this the last question. I have a whole list of questioners who have been sitting here all afternoon and I allowed you to go before them. If you have one quick question, we can have a brief response from the minister. Then I have to go back to Mr. Runciman and Mr. Swart, who are on the list.

Mrs. Marland: My final question is, what is the current status of the Ghermezian proposal? Is the province going to give this private sector proposal financial enhancement to establish on the Mississauga site and have the adverse impact that you now know it would have on existing commercial retailing in the southern Ontario area?

Hon. Mr. Kwinter: The present status of the project is that they optioned the land at Eglinton Avenue and Airport Road, or wherever it was. That option has now been dropped. As far as I am concerned, there is no longer any relationship. When I say a relationship, we never committed ourselves to anything on that project. All we were doing was trying to facilitate their development if there was a role to be played. At present, I do not know what their status is. They have dropped the option, and as far as I am concerned I am no longer involved with them. If they call me, I will respond, but that is where it is. There was no commitment on the part of the government of Ontario to do anything. There are no ongoing discussions with them at all.

Mr. Chairman: Mr. Runciman, I will go to you. Mr. Swart indicated he would give you an additional amount of time because he took some additional time at the beginning. Do you want to go to the Ontario Film Review Board?

Mr. Runciman: I will not take too long. Mr. Swart wants to talk about the Ontario motor vehicle arbitration plan. I want to put on the record that I take exception to what the minister has just said with respect to his implication that Mrs. Marland is to be equated with off-the-street individuals in terms of being invited to a meeting that affected the area she had been elected to represent. The provincial government was involved. I think it is only appropriate and common courtesy for the government, whatever the government might be, to keep the elected members informed and involved if it expects to have co-operation in matters such as this. I remind us all we are dealing with a minority government.

I have a couple of questions about the film review board. This was prompted by a recent article in the media. It does not necessarily relate to the body of the article, but the Toronto Star's headline was "Film Review Board to Drop Hardliners." I want to ask the minister about the rationale. If this article is accurate about Mr. Clarke and Mr. Matthews–and I am not sure about Barbara Kelman–it is not the board's intention to continue with those individuals as vice-chairmen; they are going to be dropped. Is that accurate; and can you explain why?

Hon. Mr. Kwinter: That is accurate, but it has nothing to do with that. Whoever wrote that article, that is his interpretation of why it is being done. What happens is that there is a constant changing of that board. There is a feeling among past and present members that a desensitization takes place when you are on the board for some time and that for it truly to reflect community standards there should be a constant renewal.

When the board was expanded to its present complement of 40 members these people came in, and we try to appoint people who represent a broad cross-section of the community that is out there. If you take a look at the members, they represent a whole range of backgrounds, ethnic groups, points of view and ages. They get changed from time to time, and new appointments are made. Last year, as you will recall, this same kind of article appeared, and it said, "All these people are being turfed out Christmas Eve without any notice of any kind." That was false; it did not happen. What we did was to change some, but every one of the vice-chairmen who was in place last year had been appointed by the previous government and had served his period.

Mr. Runciman: Some of those people showed up for work to find they had been fired.

Hon. Mr. Kwinter: That is not true at all. That was your allegation, but it was not true. They are still there. How could they have been fired if they are still working?

Mr. Runciman: I am not talking about the vice-chairmen, I am talking about members of the board.

Hon. Mr. Kwinter: I do not know about that.

To make sure that does not happen again, the current chairmen were notified that they had served their two terms and would not be reappointed. In some cases their terms expire in February, and in others in January. They were given at least three months' notice so that it would not come as a surprise. There is no feeling at all about whether they are hardliners or not. That is an interpretation and a cast that was put on by the person who wrote that article.

The people have not been appointed yet, but the vice-chairmen will be appointed from the existing sitting members of the film review board.

Mr. Runciman: You are on the record as having said, in July 1985, that we are in a society where it is abhorrent to most people to impose censorship on anything. You also said there is no such thing as an obscene book. In an interview, I gather in the Toronto Star, in May 1986, " 'Ontario can expect a more progressive film and video review board under a Liberal government,' consumer minister Monty Kwinter said yesterday." What do you mean that you want a more progressive film and video review board?

Hon. Mr. Kwinter: First let me address your first comment. I agree that I am opposed to censorship. Censorship conjures up visions of people telling me what I can think, what I can do, burning my books and saying, "That is not what you can do or what you can or cannot see." In 1921, the film review board of Ontario, or whatever it was called, had a little booklet of guidelines. It makes interesting reading. It said, in effect, that you could not show a foreign flag in a film in Ontario; you could not do a range of things that are absolutely ludicrous when you look at them today, but that was the way it was.

Having said that, and having said that I personally am against censorship, I think that is from a philosophical point of view. From a social point of view, it is required.

To give you an analogy that I hope will show what I mean, I am sure there is not a person in this room who is opposed to free speech. Nobody says we should not have free speech. That does not mean you can go out and slander or defame people. Notwithstanding that we have a general

prohibition against the banning of free speech, there are certain constraints. I have no problem with making sure that films shown in Ontario do not depict gratuitous violence, the degradation of women or the exploitation of children for sexual purposes. That in no way contradicts my opinion about censorship.

Mr. Runciman: I still have a problem understanding what you meant by more progressive. What exactly are you going to do differently or do you see being done differently than has been done in the recent past? I am not going back into the 1930s or 1940s; I am talking about what happened under Mary Brown during the past five or six years.

17:40

Hon. Mr. Kwinter: Let me give you an example of the problem we face. One of the things that happens in our society is that technology overtakes us. We have what I consider to be a ludicrous situation, where the distributor of Texas Chainsaw Massacre, Part III–a great movie, which I have never seen; I have never seen any of them, but it has a terrific title–calls me up and suggests that we are going to be the laughingstock of the entertainment industry because we are banning the film.

There is not a jurisdiction in North America or in the world that has even cut the film, but Ontario has banned it. That is fine. If, under the guidelines under which it operates, the Ontario Film Review Board decides that is what it wants to do, that is fine. The problem is that people now have satellite dishes. They can beam in films from anywhere in the world and can see whatever they want to see if it is being telecast.

People can go across the border to Detroit, Buffalo, Sault Ste. Marie–anywhere they want–and pick up a cassette of this same film. People can have pyjama parties where they can see Texas Chainsaw Massacre, Part III. There is nothing you can do about it. The only thing you are doing is prohibiting the one segment of the entertainment industry that makes its livelihood from showing films from showing the film. You have not eliminated the problem of people's being able to see it. You have said to one segment that it cannot show it, but people can bring it in on a tape or bring it in on a satellite dish.

Mr. Runciman: What are you going to do about it?

Hon. Mr. Kwinter: We are fighting a battle that we have no way of winning. Notwithstanding that, I do not say we should abandon the field. I am suggesting we should at least be consistent. To give you an example, that film was screened and rejected. It was sent back to another screening and was rejected. It was sent back a third time. That time it was approved, and they showed it.

What you have, therefore, is a mockery. If you cannot enforce the law, the law becomes an ass. In an ideal world, the federal government through the Criminal Code would define obscenity and would say, "If you show that film we will prosecute under the Criminal Code and you will be subject to the full force of the law."

Unfortunately, it has not done that. It has suggested there is this grey area of community standards. In turn, we have a board that interprets the community standard, but it is different for different communities. Which community are we talking about? Something that would be quite acceptable in downtown Toronto would be totally unacceptable in some other community in Ontario.

Mr. Runciman: I would like to interrupt here. You are pontificating at length. I would like to know specifically what you are going to do. We do not have a lot of time. We need to make a decision about whether to ask for that extra hour. I would like you to be as brief as possible and suggest specifically what you intend to do to make this thing more progressive, other than by putting like-minded people on the board.

Hon. Mr. Kwinter: We are not putting like-minded people on the board. You take a look at our recent appointments. We have put small-c conservative old women on there, women in their 60s who have the most narrow point of view–

Mr. Runciman: Really?

Mr. Swart: Be careful of your definition of "old."

Hon. Mr. Kwinter: What I am saying to you is that you should take a look at the people who are there. They cover the whole spectrum of what our community is. When you say they are like-minded, it is–

Mr. Runciman: Narrow-minded old conservatives.

Hon. Mr. Kwinter: No; I am saying they are represented and we are making sure that all those constituents are represented. The only thing I want to do is to make sure it is evenhanded and it does not become a farce where you determine your classification on the basis of the panel you happen to have viewing your film. I hope we will come up with some sort of group that will know what the guidelines are–and the guidelines are there; they are spelled out–and we will get some

uniformity. There are also some anomalies that we want to address, and I hope to be introducing legislation.

Mr. Runciman: When?

Hon. Mr. Kwinter: In the next day or so, perhaps Thursday.

Mr. Runciman: Legislation to amend the act?

Hon. Mr. Kwinter: To change some of the regulations to deal with video and with some of the problems we have about things such as film festivals and art venues, where the Art Gallery of Ontario says: "This is ridiculous. We have something that has international recognition and we cannot show it because the artist will not submit it to the Ontario Film Review Board on a basis of principle." It is not so much the subject matter; it is just that they are saying: "Because of the basic principle, we do not think our art, which is art, should be subject to censorship. We are not prepared to submit it." The Art Gallery of Ontario cannot show what has become a major visual force: that is, art as it is depicted in video. These are things we want to address.

Mr. Runciman: We will have to send a copy of Hansard to Anne Jones with the reference to "old, narrow-minded conservative ladies" highlighted and see what her response to it is.

Hon. Mr. Kwinter: I meant that as a complimentary term, by the way.

Mr. Runciman: I have one final question. Have you yourself viewed the out-takes at the board?

Hon. Mr. Kwinter: Yes, I have.

Mr. Runciman: What was your reaction to them?

Hon. Mr. Kwinter: I had mixed reactions. I could not understand why some of the scenes I saw were taken out. I could not believe anyone would want to make some of the scenes I saw. I was not horrified. I do not go to the movies anyway, but I would not pay a nickel to see them. There were some scenes where I was literally waiting for the other shoe to drop to see why those scenes were removed.

Let me just tell you a couple of little things.

Mr. Chairman: Quickly, because I have to go to Mr. Swart.

Hon. Mr. Kwinter: In one scene, a fellow was manacled to a pipe, and they kept punching him. I watched it, and when it was over I said, "What else?" That was it. It seems to me–and I may be wrong–that I had seen something like that before.

Mr. Chairman: In the last election.

Hon. Mr. Kwinter: It was not pleasant, but certainly it was not something about which I would say, "My God, nobody in Ontario should be allowed to see that." I said, "Why was that taken out?" They said, "If he had hit him four times it would have been all right, but it was that extra punch that made the difference, so we took it out."

There was another scene. Again I may be wrong. Someone was being burned at the stake. It was not terribly graphic; it was backlit, and again it seemed to me that somewhere in my experience I had seen films where people were burned at the stake. I said, "Why was that taken out?" They said, "When we saw the film, it had no relation to the subject matter, so we took it out."

Decisions made that way are arbitrary and, I think, create a problem. There are other scenes–and I do not want to talk about them here–that were ridiculous to me. I do not know why anyone would make them. I have no quarrel at all with having those removed, but it is a very arbitrary kind of thing that, depending on the mood and the makeup of the panel, determines what gets approved and what does not get approved.

Mr. Chairman: Mr. Swart, just before you start, do we have agreement that we take the votes at 5:59 p.m. with about a minute to go; stack them all and go through them at that point with perhaps one motion? Is that agreeable, unless something untoward happens between now and 5:59 p.m?

Agreed to.

17:50

Mr. Chairman: All right. We will go to Mr. Swart.

Mr. Swart: I have a few questions in relation to the matter of the public advocate. I wonder whether you are familiar with the public advocate system, which varies from state to state but which is generally in place in most states in the United States at present.

Hon. Mr. Kwinter: I am not familiar with it. My assumption was that a public advocate was the same as an ombudsman. I understand it is not the same.

Mr. Swart: Perhaps it is much the same as an ombudsman, but it is much broader.

Hon. Mr. Kwinter: I have not made that distinction. Whenever I have seen the term "public advocate" referred to in various jurisdictions, I assumed that was their name for their ombudsman. I must admit that is all I know about

it. I just assumed that, but if there is a difference, I welcome your comments on it. If you have some information you want to send me, I will be happy to look at it.

Mr. Swart: I will send you a copy of the annual report of the Department of the Public Advocate in New Jersey, partly because it may be the most comprehensive of any in the US, partly because it was the first one that was established in the US and partly because New Jersey has a population somewhat similar to Ontario's and has traditionally been a rather progressive state of the US.

The public advocate's office there handles a great variety of matters. It handles the public interest advocacy, in that it is authorized to be involved and to represent the public at such things as major environmental hearings on nuclear power plants and in general matters of broad public interest. It is involved in citizens' complaints, which I suppose is somewhat similar to the complaints department of your ministry.

One of its major jobs is rate counsel; in other words, taking the public's side in rate hearings. I point out that it handles all those. They have some 20 or more public hearings with regard to telephone rates and even some hearings with regard to water rates, electricity rates and gas rates. The public advocate's office represents the public at those hearings. It has as much in the way of resources as the companies themselves. You have a situation where there is equality between the two sides. It does not cost the government anything. All these are companies that want rate increases, and they have to pay into the public advocate system.

Hon. Mr. Kwinter: It is like intervener funding.

Mr. Swart: I would not call it intervener funding in the real sense. A company that makes a rate application, such as Bell Canada or Consumers' Gas, would have to pay in. It is not always the exact amount that is spent, but they pay into this overall fund. The total amount paid in by all these companies that ask for increases in rates equals the cost in effect; the year-by-year average over the years.

It might appear to some people that is an additional cost consumers are put to, but if a company such as Consumers' Gas can spend $500,000 or $1 million on a hearing, surely consumers ought to be represented with the same kind of resources. Consumers' Gas puts that into its rate. It goes into the cost and the public pays that. The support of the rate increases is paid by consumers. Surely consumers should have the right to pay for a defence. That is a principle that is followed there.

There is also mental health advocacy, and there is advocacy for disabled people. There is an office of the public defender. There is an advocate for inmates of institutions, including the jails; through certain processes they can have the public advocate act in their behalf.

I hope you will give serious consideration to that principle. In only 11 years it has spread from one state, New Jersey, to some 40 states in the US at present. It puts a degree of fairness into society. I am the first one to admit we have had some move in this direction in recent years–not so recent–with the Ombudsman we have at present and with some degree of funding of public interest groups, but nowhere have they matched what was being done in the US.

If you realistically take a look at Consumers' Gas, for instance, as compared to other competitive enterprises in our society, you will have to admit it did not even know there was a depression on; it was always able to get at least a 15 per cent return on equity. Even Bell Canada, as you well know, is being ordered to return $200 million. That sort of thing would never happen in the US because it is thought out at the time, and if there is any erring done, the erring is done on the side of the consumers, not on the side of the corporation.

I will get a copy of this to you. I have them back for several years, and in addition quite a bit more information on it. That is a direction in which I and most people believe we should move in our society. It is inevitable you have systems in some areas where there is practically no competition and it is inevitable you have situations appearing all the time where there is an inequal balance between the defender or the advocate, whatever the case may be. This makes a more even playing field all around in our society.

Hon. Mr. Kwinter: How do you differentiate between an ombudsman and a public advocate?

Mr. Swart: In all those places, the public advocate handles the responsibilities the Ombudsman handles here, but our Ombudsman is very limited.

Hon. Mr. Kwinter: This is what I want to find out.

Mr. Swart: You can expand the Office of the Ombudsman and still call it the Office of the Ombudsman while taking on all these other areas of operation.

Hon. Mr. Kwinter: You see the possibility of taking the Ombudsman and expanding his sphere?

Mr. Swart: Mind you, there is some difference in philosophy between what the public advocate does and what the Ombudsman does here. It could be broadened gradually here if you wanted him to get into certain areas. The principle is that the public advocate is an ombudsman, but much more than for individual injustices, for injustices to groups in our society. I suppose that is the real difference in philosophy, but it is a system that works. It is very popular in the US; it has spread across the US like wildfire.

Mr. Chairman: Okay. I will stop you in that position, with your hand up. I will ask you to let us get on with the vote now. I think you have made a point with the minister. He is taking it very seriously, with no commitment, but I am sure he is taking it under advisement. I have to move on to the vote before the bell goes.

Vote 1201 agreed to.

Votes 1202 to 1206, inclusive, agreed to.

Supplementary estimates agreed to.

Mr. Chairman: This completes the estimates of the Ministry of Consumer and Commercial Relations.

Mr. Swart: I wish to make to make one comment before we adjourn, if it is not out of order.

Something that bothered me and the Conservative critic was the matter of real conflict in this whole matter of the bereavement industry. I wonder whether the minister would be agreeable to having some committee of the Legislature holding public hearings within a short time, before he brings in that legislation. I am not sure of the procedure that could be used to accomplish that–perhaps a white paper could be tabled and referred to a committee for public hearings–but I would like to find out today whether the minister is in favour of that principle.

I know the amount of work in the Legislature; I am very conscious of that. However, would you be in favour in principle of trying to arrive at a procedure whereby, within the next few months, there could be public hearings on the whole bereavement sector? We could hear from people, and I have a number of names, who feel there has been high pressure from these commercial cemeteries. We could have the factual evidence presented. You could even have your parliamentary assistant chair it.

Hon. Mr. Kwinter: Before we bring in any kind of legislative change we will have full consultation. I certainly expect that any legislation we bring in would be referred to a committee of the Legislature to deal with in any way it wants to deal with it.

Mr. Swart: That is not what I am asking you.

Mr. Chairman: Can you ask for it briefly? I know the point you are trying to make, but we do have to close this off.

Mr. Swart: I realize the Legislature has the power to refer all this out and have public hearings–I am fully aware of that–but on some occasions there have been hearings and white papers on issues. That is what I am asking you. I would like to see that take place. It could be done quickly and take place prior to the legislation.

Hon. Mr. Kwinter: I have heard you. Leave it with me and I will see what we can do.

Mr. Chairman: Before I call the adjournment, I have one last comment to get on the record.

The minister committed to getting the balance of the information to the committee by way of written information and getting it into Hansard.

Hon. Mr. Kwinter: Yes.

Mr. Chairman: If you will present that to the clerk, we can use that as an exhibit or an addendum to our consideration of these estimates.

The committee adjourned at 6:01 p.m.

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Ontario

No. J-5

Hansard
Official Report of Debates
Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Municipal Affairs

Second Session, 33rd Parliament
Monday, January 12, 1987

Speaker: Honourable H. A. Edighoffer
Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, January 12, 1987

The committee met at 3:43 p.m. in room 151.

ESTIMATES, MINISTRY OF MUNICIPAL AFFAIRS

Mr. Chairman: Members of the committee, in recognition of the fact that the Ministry of Municipal Affairs is a relatively large ministry and we have been allocated only a very limited number of hours, I suggest we get going as quickly as possible.

In terms of the agenda itself, the minister, as is usually the case, will make his opening statement to the members of the committee, followed by the critics for the official opposition and the third party; then we will go to questions. It is my understanding also that a presentation has been prepared by the ministry in relation to some of the functions of the ministry and that there will be some slide programs and perhaps some other things as well. I will let the minister introduce those at the appropriate time.

We have only five hours to cover the estimates. With that in mind, you will recognize that we are going to have to move as quickly and as expeditiously as possible. I will not, as chairman, hold you to a rigid formula, but I would like you to use your own discretion with respect to your opening statements and the preamble to your questions so that we can entertain all the questions from as many members as want to have input into the issues before us.

Let me first of all, on behalf of the members of the standing committee on administration of justice, welcome the honourable minister. We will turn the meeting over to him at this point.

Hon. Mr. Grandmaître: Thank you, Mr. Chairman. Before I start with my opening remarks, I would like to introduce some of my staff. My newly appointed parliamentary assistant is Ray Haggerty.

Mr. Chairman: Well deserved, I might say. He is a very qualified senior representative of the government. We are pleased to have him here.

Hon. Mr. Grandmaître: This is my acting deputy minister, Eric Fleming, on my left. The executive co-ordinator of corporate resources, Elizabeth McLaren, is right behind me. Milt Farrow, the assistant deputy minister of community planning, is also on my left. Brian Crowley is the acting assistant deputy minister of Municipal Affairs. Ivor McMullin, apparently, is sick. He is the chairman of the Niagara Escarpment Commission.

I have the honour of introducing the estimates for the Ministry of Municipal Affairs for the fiscal year ending March 31, 1987. I look forward to discussing those estimates with this committee.

Je voudrais vous mettre au courant de certaines initiatives que le ministère des Affaires municipales a entreprises dans deux domaines principaux de responsabilité: la planification communautaire et les affaires municipales.

In both these areas, the ministry has a common goal, promoting greater self-reliance and accountability among Ontario's local governments. At the annual conference of the Association of Municipalities of Ontario last August, I said that for municipalities to become masters of their own house they must be aware that increased authority requires increased responsibility. That increased responsibility means they have to handle the occasional hot potato and make the local tough decision.

Je crois cependant que le ministère des Affaires municipales doit renforcer et accroître les possibilités de prendre des décisions chez les administrations municipales.

Le Ministère accomplit ces choses d'un certain nombre de façons. Je voudrais souligner certaines d'entre elles pour le comité aujourd'hui, tout d'abord dans le domaine des affaires municipales, puis en ce qui concerne la planification communautaire.

Our efforts to help municipalities fall into three broad categories. First, we are working to ensure that local governments have a clear mandate from the electorate. Second, we provide financial assistance so that municipalities have the resources they need. Third, we undertake educational programs to ensure they have the expertise they need to make the decisions that have to be made.

L'un des points les plus importants sur lequel mon ministère travaille, c'est la réforme des élections municipales. Celle-ci renforcera le fondement même d'une bonne administration municipale: le processus démocratique par lequel nous élisons nos administrateurs locaux.

La réforme des élections municipales est une façon pour mon ministère de s'assurer que les administrations municipales ont un mandat clair de leur électorat, auquel j'ai fait allusion plus tôt.

Je crois qu'elle renforcera l'administration municipale en Ontario. Je compte recevoir le rapport définitif du Comité consultatif sur les élections municipales, rapport qui, sans doute, servira de base aux changements législatifs.

Si nous avons le temps, mon personnel vous donnera davantage de détails sur cette initiative de mon ministère.

Another major initiative undertaken by the ministry this year is designed to improve and strengthen the democratic process in Ontario's largest municipality, Metropolitan Toronto. In February, I established a task force on representation and accountability in Metropolitan Toronto to study the relationship of the Metro council to the electorate. The task force has finished its work, and I released its findings in mid-November. I believe this review is essential if we are to ensure that Metro Toronto has a clear mandate from its citizens.

Metropolitan Toronto is the major centre of business, culture and finance in Ontario, indeed in Canada. That, coupled with its multicultural cosmopolitan atmosphere and sheer good looks, has made it a world-class city.

Je crois, comme bien d'autres aussi, qu'à mesure que la région métropolitaine s'accroît et mûrit, il sera nécessaire d'examiner les systèmes qui sont en place et d'étudier les moyens de les améliorer. Il faut également mettre fin à la confusion dans l'esprit des électeurs sur les gens qui les représentent et ce qu'ils font en leur nom.

Évidemment, le gouvernement n'est pas prêt à faire des recommandations précises. J'ai donné le rapport aux politiciens de la communauté urbaine de Toronto et je compte recevoir leurs observations et les observations de leurs électeurs.

Je m'attends à recevoir ces observations d'ici le mois de mars 1987. Donc, tous les changements au système peuvent être en place bien avant les élections municipales de 1988.

Let me now turn for a moment to the funding the ministry provides to municipalities. As you know, each year the province transfers substantial funds to municipalities under the ministry's unconditional grants system. Funding through this program moderates local tax levies and provides municipalities with the consistent source of revenue they need to take responsibility for their own affairs. Last year we announced the exact transfer amounts for each municipality much earlier than in previous years. This meant more time could be spent deciding local spending priorities in accordance with local needs and preferences. This is a change municipalities have requested for a number of years.

1550

J'ai le plaisir de vous signaler que nous avons fait face à cet engagement une fois de plus cette année. Les détails complets des subventions de 1987 ont été annoncés le 4 novembre.

Le programme de subventions inconditionnelles du ministère des Affaires municipales pour 1987 s'élèvera, en tout, à $821.3 millions, soit une augmentation de près de $40 millions, soit 4.9 pour cent par rapport à l'année précédente.

J'ai également le plaisir de vous signaler que mon ministère s'est particulièrement préoccupé des municipalités du Nord et de l'Est de l'Ontario, qui recevront au moins cinq pour cent de plus en subventions inconditionnelles que l'an dernier.

These changes mean that most municipalities should now be able to levy mill rate increases for 1987 at or below the predicted rate of inflation.

Before I leave the area of municipal affairs, I would like to touch on one other initiative that I believe will aid municipal self-reliance. I am referring to the Advisory Committee on Municipal Insurance, established in response to municipal liability insurance problems that have been developing in the province. The final report of the committee was released in mid-November. The committee worked in parallel with Dr. David Slater's Ontario Task Force on Insurance.

En avril, le comité a présenté un rapport provisoire sur les problèmes de coût et de garantie auxquels les municipalités de l'Ontario doivent faire face. Ces conclusions ont été par la suite incorporées dans le rapport du groupe de travail Slater.

Le comité a rencontré une vaste représentation des experts d'assurances représentant l'industrie d'assurances ainsi que les représentants de la province et des municipalités, tant à l'intérieur qu'en dehors de l'Ontario.

Fundamentally, the committee's mandate was to determine the feasibility of establishing a municipal reciprocal insurance exchange in Ontario, to encourage and foster long-term stability in municipal liability insurance markets and to promote improved risk management procedures at the individual municipal level.

Je pense que le rapport est précieux. Il fournit une large compréhension des problèmes et des options en assurance-responsabilité civile.

J'ai fait circuler ce rapport parmi les présidents des conseils municipaux, parmi l'industrie d'assurances et d'autres parties intéressées. J'espère recevoir leurs commentaires sur les recommandations du comité d'ici la fin janvier.

I would now like to turn to the community planning program. In community planning, as in municipal affairs, the consistent theme that runs through our programs is local self-reliance. In many areas, my ministry is encouraging municipalities to assume increased responsibilities for planning their communities. At the same time, we are providing funding to municipalities to help them address the planning issues facing them.

We are also undertaking educational initiatives to make local planners, politicians and the public more aware of community planning issues.

I would like to tell you first about the steps we are taking to delegate authority for land use planning.

Nous venons de terminer les négociations avec Hamilton-Wentworth concernant la délégation de mon pouvoir d'approuver les plans officiels et les modifications au plan officiel. Le 3 novembre dernier, j'ai signé l'ordonnance déléguant ce pouvoir.

Hamilton-Wentworth est la troisième région qui se voit conférer le pouvoir d'approuver les plans officiels et les modifications au plan officiel. Les municipalités régionales de Waterloo et d'Ottawa-Carleton ont déjà assumé cette même responsabilité.

At the same time, we have completed zoning bylaw negotiations with Milton, Oakville, Mississauga and Brampton, enabling me to revoke provincial parkway belt land use regulations in favour of local control.

In another area, the enactment of section 40 of the Planning Act gives municipalities the right to exercise site plan control. Our plans administration branch has been kept busy helping municipalities put the appropriate provisions in place to accept that responsibility.

Financial assistance to municipalities is another important part of our community planning program. Funding from the ministry allows municipalities to undertake the planning projects that will most benefit their communities.

One of our major funding programs is the program for renewal, improvement, development and economic revitalization, which we refer to as PRIDE. PRIDE was recently expanded to permit all areas of a municipality, industrial and mixed-use areas as well as neighbourhoods and commercial areas, to benefit from community improvement. My staff would be pleased to give you more details on the program later. I believe this expanded PRIDE gives municipalities greater flexibility to address their own unique community renewal needs.

Nos autres programmes importants de financement sont le programme de subventions de planification communautaire et le programme de subventions à l'administration de l'aménagement. Ce programme permet aux municipalités de créer les politiques–les plans officiels et les règlements de zonage–qui leur permettront de réglementer l'utilisation du sol au sein de leurs circonscriptions.

Il contribue également à notre objectif éducatif en finançant des études sur les questions de planification locale. En outre, ces programmes de financement permettent de maintenir le programme de planification locale et de promouvoir le développement économique par le biais d'une plus grande planification effective dans l'utilisation des terres.

But money is only a part of the assistance we give to a municipality. I would like to turn for a minute to the educational components of the community planning program.

One of last year's broadest and most successful educational initiatives was the Citizen's Guide to Ontario Planning. The citizen's guide is a package of eight information pamphlets. More than 150,000 copies of this package were sent to municipalities and to various organizations across Ontario, as well as to the general public. The brochures, printed in layman's language in English and French, explain the Planning Act, the subdivision process, zoning bylaws, official plans, land severance, the Ontario Municipal Board and planning in northern Ontario.

The brochures have been extremely well received, and a second printing was required almost immediately after the first mailing. It is an excellent publication, and members may pick up copies here today.

La Direction des services consultatifs sur la planification communautaire a également entrepris un certain nombre d'initiatives en matière d'éducation visant directement les planificateurs professionnels et les politiciens municipaux. Plus les politiciens locaux en apprennent sur le processus de planification, plus il sera facile pour eux de prendre les bonnes décisions en matière de planification pour leurs communautés.

Les conférences annuelles de planification régionale permettent aux planificateurs et aux politiciens municipaux de se mettre à jour sur les

nouvelles questions de planification communautaire. En outre, un cours spécial à l'intention des administrateurs en planification est à l'heure actuelle en voie d'élaboration.

While I am on the topic of educational initiatives, I would like to touch briefly on the role of the community renewal branch in educating local business people. There are now more than 200 business improvement areas in Ontario, representing nearly 40,000 small businesses. These local organizations are responsible for the physical improvement of our downtowns and neighbourhood commercial areas as well as for the continuing promotion of these areas.

My ministry has been increasing and will continue to increase its support to business improvement areas, support in the form of advice, educational conferences and publications. Our aim is to enhance their role as agents for local economic development and initiative. An economically healthy downtown is an important part of a self-reliant municipality.

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Plusieurs autres activités du Ministère encouragent l'autonomie locale, et je voudrais passer rapidement en revue certaines d'entre elles.

L'une est l'administration des plans. L'administration des plans est une fonction de réglementation. En examinant et en approuvant les documents de planification, mon ministère s'assure que les administrations locales ont en place les plans officiels, les règlements de zonage et d'autres documents qui serviront le mieux leurs communautés.

De nos jours, en raison du boom de l'industrie du bâtiment et d'une économie qui est, en général, florissante, c'est une fonction qui donne beaucoup de travail à ceux qui l'exercent.

La Direction de l'administration des plans aide également les municipalités à adopter des politiques de développement pour éviter des problèmes d'inondation. Brampton, St. Marys, Chatham et Bolton sont parmi les municipalités qui viennent d'adopter de telles politiques.

En outre, la Direction de l'administration des plans joue le rôle de médiateur, contribuant à résoudre un grand nombre de différends en matière de planification qui auraient pu aboutir à des audiences coûteuses de la Commission des affaires municipales de l'Ontario.

À mesure que ce pouvoir de délégation se poursuit, mon ministère continue de s'assurer que les intérêts légitimes de la province sont suffisamment protégés.

During the past year, the first policy statement was issued under the 1983 Planning Act. The mineral aggregate resources policy was prepared jointly by the ministries of Natural Resources and Municipal Affairs. It was released in April 1986 after cabinet approval.

Another policy statement, undertaken with the Ministry of the Environment, deals with environmental land use compatibility. To reduce the impact of noise and pollution, this policy statement addresses such matters as noise levels for railways, airports and freeways, and separation distances between major industrial plants and residential areas.

Others are being developed. The food land preservation policy statement has been through the public review process, and submissions are being reviewed with the Ministry of Agriculture and Food for possible changes to the policy. This past September, a draft policy statement on flood plain planning was jointly released with the Ministry of Natural Resources for public review. Comments have been received and are being reviewed.

Deux autres initiatives principales ont pour but de protéger les intérêts provinciaux: l'aménagement de la ceinture de promenades (ouest) et le plan d'aménagement de l'escarpement du Niagara.

À l'heure actuelle, nous administrons le plan d'aménagement de la ceinture de promenades (ouest) conformément aux dispositions de la Loi sur l'aménagement d'une ceinture de promenades et de la Loi sur les plans d'aménagement du territoire de l'Ontario. Nous entreprenons également un examen complet de ce qui est requis en vertu des deux lois.

Nous avons terminé un certain nombre d'études documentaires et techniques conformément aux directives de la législation en vigueur. Elles font l'objet, à l'heure actuelle, d'un examen de la part de tous les ministères et organismes touchés pour assurer la protection des intérêts de la province.

Les études et observations que nous recevrons à leur sujet formeront la base d'une refonte du plan d'aménagement. Ce plan refondu sera présenté au public et un processus de consultation intégrale et ouverte aura lieu avant que le plan ne soit soumis au Cabinet aux fins d'approbation.

In the meantime, the parkway belt group provides ongoing planning advice and consultation. It has advised Ontario Hydro on surplus lands located in the Clarkson area of Mississauga. It also assisted the Ministry of Government Services in its successful negotiation with

Consumers' Gas to locate a major gas line within the parkway belt.

The Niagara Escarpment plan is an excellent example of the way in which my ministry is trying to delegate as much authority as possible to municipalities while protecting provincial interests. We have published a consolidated Niagara Escarpment plan and implementation proposal and we have held successful meetings with affected regions and counties to launch our implementation exercise.

Procedures have been established for the delegation of development control to municipalities, as they bring their official plans into conformity with the Niagara Escarpment plan. The process of bringing those official plans into conformity with the escarpment plan is already well under way, beginning with the four regional municipalities through which the escarpment runs and Bruce county. Until that process is complete, the Niagara Escarpment Commission, which is the subject of a separate vote here, has the authority to approve development permits and amendments to the plan.

Monsieur le Président, j'ai essayé de vous mettre à jour sur certaines des initiatives que le ministère des Affaires municipales entreprend. Le but principal du Ministère est de fournir une plus grande autonomie et une plus grande responsabilité parmi les administrations locales de l'Ontario.

I hold the view that the Ministry of Municipal Affairs should enhance and improve the decision-making abilities of municipal government. I have outlined some of the ways in which my ministry tries to do that, first in the area of municipal affairs and then in the area of community planning.

J'ai parlé des étapes que nous suivons pour nous assurer que les administrations locales ont un mandat sans ambiguité de la part de leurs électeurs; j'ai parlé de l'assistance financière que nous mettons à la disposition des municipalités; et j'ai aussi abordé le sujet des initiatives éducatives que nous entreprenons.

There are many more things I could tell you today, but I am sure the honourable members would like to proceed. If the committee agrees, I would like my staff to make two, and depending on the time, perhaps three presentations. One is on the PRIDE program, which I mentioned earlier and which relates to vote 2204, the community planning program.

In the second presentation, I would like staff to explain how our field office staff use computers to assist in carrying out financial evaluations of municipalities. If we have time, my staff can also describe to this committee the composition of the municipal analysis and retrieval system and its availability to municipalities.

A third presentation, again if the committee has time for it, is on municipal election reform.

Mr. Chairman: Before we proceed with the presentations, I wonder whether the committee would like to discuss the amount of time we have available for those presentations. I have a little difficulty, recognizing that we have only five hours in this committee. I have no idea how long the critics' responses are going to be. Do you want to limit the presentations, do you want to give some indication to the minister of how long you would each need or do you want to play it by ear? I would like to deal with that quickly now. If there are any concerns on the part of the committee about the length of the presentations, please express them. I want us to keep on moving, because I have a feeling there are going to be a significant number of questions.

Mr. Partington: I am satisfied. I thought, though, that perhaps I would make my statement next, then the New Democratic Party critic would make his and then we would have the presentations after that.

Mr. Chairman: All right. The member for Oshawa (Mr. Breaugh) has now returned. I know he was on pressing government business and had to leave the meeting for a few brief moments.

Mr. Polsinelli: How could he be on government business?

Mr. Chairman: All the business of this committee is pressing government business; I am sure you are aware of that.

The issue at hand is whether you would like to proceed with the responses of the critics now, before the presentations, and also how long you would like the presentations to go.

Mr. Breaugh: It might be useful if we split the time. Today let the critics have their day, and if there is some time left, work in a couple of presentations. If there are other members who want to ask questions about something, a local problem or whatever, perhaps they can do it tomorrow. That might mean we would have one general discussion and take all the votes at the end of it.

Hon. Mr. Grandmaître: The presentation on the PRIDE program would last about eight minutes; the one on the election program, about 10 minutes; and that on the evaluation program, possibly 12 minutes.

Mr. Breaugh: We might get both critics' statements in today and also do the three presentations.

Mr. Chairman: Is it my understanding, then, that the committee wishes to proceed now with the responses on the part of the critics and then have the presentations. If so, Mr. Partington, you have the floor.

Mr. Partington: Given the limited time we have available to examine the estimates of the Ministry of Municipal Affairs, rather than attempt to canvass the broad range of issues that fall under the purview of this ministry, I intend to confine my remarks this afternoon to what I consider four or five of the more critical issues that face this ministry and its minister.

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I hope that, along with expanding on these issues, we will deal with a number of other matters later when the minister and his staff are available to respond to questions for me and the other members of the committee.

Municipalities are an integral and essential component of our democratic system of government. As creatures of provincial statute, regional and local municipalities are confined in the activities they may perform and the actions they may take. Notwithstanding these restrictions, the enduring nature of our municipalities and their ongoing vitality arise from their accessibility and accountability to local ratepayers and the ability of municipal governments to respond to local needs.

In order to ensure that our municipalities continue to play this fundamental role, the province must strive to allow local governments the autonomy they require to respond to the needs and wishes of their residents while at the same time providing the guidance that is required to maintain province-wide standards of excellence.

First and foremost, local municipalities must be provided with sufficient access to and control over the revenue they require not only to discharge the obligations that have been placed on them by the province but also to respond to local concerns. Of particular importance is the need for additional funding for the maintenance and expansion of the municipal infrastructure.

The massive investment that already exists in municipal roads, bridges, sewer and water systems must not be placed in jeopardy. One of the most important areas of municipal jurisdiction centres on their responsibility for planning, constructing and maintaining local roads, bridges, sewers and water systems.

It is becoming readily apparent, however, that the funding required to maintain and expand the municipal infrastructure is beyond the limited financial resources of our towns and cities. This problem has been exacerbated by the fact that in recent years provincial funding to municipalities for items such as roads and sewers has not been able to keep pace, because of the effects of the recession and competing demands from other provincial programs.

Many areas of the United States are already suffering because of the failure to fund these services adequately. If the current trend in Ontario is allowed to continue, Ontario will be faced with the same situation.

For example, the Ontario Road Builders' Association currently estimates that 37,679 kilometres, roughly 61 per cent of Ontario's paved municipal road system, will need either resurfacing or reconstruction over the next five years. If we are to protect the massive investment that already exists in our roads, bridges, sewers and municipal water systems, sufficient funds must be made available to repair the municipal infrastructure to appropriate province-wide standards. Furthermore, where necessary, there must be sufficient funding for additional hard surfaces. Those residing in new residential areas must not be forced to accept a lower level of service or to pay for those amenities out of their own pockets.

Along with providing a more realistic cap on the amount of provincial funding that is available to our municipalities for infrastructure projects, we must establish incentives to ensure that the municipalities take advantage of these programs and allocate municipal funds to this area.

These steps must be taken without delay in order to protect the investment that already exists in our municipal infrastructure and to ensure that the level of municipal services is adequately maintained throughout Ontario.

Efforts must also be made to streamline the land use planning process. Barriers to development, such as rapidly escalating servicing demands and lengthy processing procedures at both the municipal and provincial levels, must not be allowed to continue. The land use planning process is a minefield of provincial and municipal rules and regulations that threatens to undermine future development in this province. It is becoming abundantly clear that procedures must be streamlined through the efforts of both levels of government. Red tape, excessive administration fees and delays in the application process must be eliminated.

For example, at the municipal level, steps must be taken to eliminate the excessive array of fees that must now be paid in order to obtain information from a municipality on issues such as zoning compliance, outstanding work orders, taxes or even advice on a particular municipality's land use planning policies or procedures.

Rapidly escalating lot levies or capital contributions must also be curbed. Recognition must be given to the fact that the costs and benefits of new housing or commercial development must be borne by all. Newcomers cannot be expected to pay their way into a municipality as they would into a private club.

For many applicants, the option of an appeal to the Ontario Municipal Board is not a viable alternative. As a result, they must endure lengthy processing procedures, questionable site plan agreements, unreasonable servicing demands and excessive park land dedication requirements, just to mention a few of the abuses that must not be allowed to continue. The dictates of municipal autonomy must not be permitted to hinder future development.

Also of critical importance is the need to improve relations between the two levels of government. Not only does the province determine the scope of municipal jurisdiction, but also virtually every provincial policy or statute has some impact on municipalities or their residents. Given this relationship, ongoing liaison and consultation are critical. Along with providing municipalities with advance knowledge of proposed changes to provincial policy so that they may plan for the future, improved liaison should facilitate co-ordinated effort.

Municipalities form an integral component of the trilevel governmental framework that exists in Canada. Unlike the senior levels of government, however, municipalities are creatures solely of provincial statute. The powers vested in our regional and local governments flow directly from statutory law, and as such, can be altered at the will of the provincial Legislature. Furthermore, many provincial policies and programs impact on the activities of our municipalities even though these initiatives do not relate directly to the issue of municipal jurisdiction.

In view of the critical relationship that exists between the provincial and local levels of government, it is imperative that mechanisms be developed to ensure that municipalities are consulted before legislative or policy changes are implemented. The existing sentiment suggests that on many occasions the province acts without concern for or regard to the effects that a particular course of action will have on our municipalities. A consultative process could not only result in improved provincial programs, but also provincial-municipal relations would be enhanced.

Initiatives must also be developed that seek to maintain and foster accessibility and accountability, two important keys to a healthy local government. The enduring nature of municipal government and its ongoing vitality arise from accessibility and accountability to local ratepayers. To ensure that this continues and that we receive the open government we require, decision-making must not be permitted to occur behind closed doors. Every effort must be made to encourage and allow groups and individuals to participate in municipal government decision-making.

One step that should be taken in this regard relates to the ongoing conduct of council and committee meetings. Following the lead of many municipalities that have already implemented right-to-know bylaws, the Municipal Act should be amended to include a requirement that all Ontario municipalities establish procedural bylaws that, at the very least, meet a well-defined set of province-wide standards governing these meetings. Situations such as the problems relating to the sale of some town-owned land in Vaughan must not be allowed to continue or to occur in other areas of the province.

Local and regional municipalities are expected to perform two important functions. On the one hand, they must discharge the responsibilities that have been delegated to them by provincial statutes. At the same time, they are expected to remain responsive to the needs and wishes of their residents. To ensure that the latter goal is achieved, the province must provide the municipalities with the jurisdictional and financial autonomy they require to address local concerns properly.

Along with receiving increased unconditional grants, municipal governments must be left with as wide a scope of power as possible and be independent in the exercise of that power to the fullest practical extent. It is also of critical importance that the municipalities be provided with the funding they require to implement local programs that have been established by the federal or provincial levels of government. An undue burden cannot be placed on local property owners because of decisions made at Queen's Park.

Not only must transfer payments be increased to meet the increased demands that are being

placed on municipalities, but funding commitments must also be provided well in advance so that long-term budgeting can occur at the local level. In the same vein, municipalities must be forewarned about proposed changes to the grant structure so that they may implement necessary changes.

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The province must give recognition to the fact that while the municipalities have severely restricted sources of revenue, they must respond to increased demands for local services from their residents. If municipalities are to fulfil the goals for which they were created, they must be provided with sufficient access to and control over the revenue they require, not only to discharge the statutory obligations the province has placed on them but also to provide the services required for their residents.

Protecting our environment is fundamental to ensuring a safe and healthy world for future generations. At the municipal level, however, the onerous requirements of the Environmental Assessment Act appear to be placing our environment in jeopardy rather than meeting the goal of a cleaner environment. Under the act, prior to establishing a landfill site, municipalities must research all available methods and systems of waste disposal and examine in full detail any and all potential sites.

These requirements are not only time consuming but place an excessive financial burden on the municipal taxpayer. Furthermore, even after completing the lengthy and expensive hearing and review process, there is no guarantee that the minister will approve the site or method selected. Meanwhile, the private sector need only comply with the Environmental Protection Act, which requires proof that a specific site or method of disposal is environmentally safe.

Municipalities in the province are finding it is extremely difficult to meet the requirements of the Environmental Assessment Act and, as a result, incidents have arisen where current sites are filled to capacity before new locations can be established. Such a state of affairs, rather than protecting, threatens our environment since temporary measures must be instituted.

The existence of two distinct standards would appear to be unfair and inappropriate. Furthermore, the excessive delays and costs which have arisen under the Environmental Assessment Act suggest that immediate steps must be taken to alter the rules governing municipal landfill initiatives either by bringing municipalities under the Environmental Protection Act or by amending the Environmental Assessment Act.

The Environmental Assessment Act process must not lead to excessive delays or undue costs which are ultimately borne by the local taxpayer. A mechanism must also be established to provide municipalities with the technical expertise and financial assistance they require to meet environmental standards established by the province. Efforts to protect our environment cannot be allowed to place excessive burdens on municipalities or to threaten the environment the legislation was designed to protect.

In addition, steps must be taken to ensure that our municipal waste treatment plants are brought up to acceptable standards. It has been estimated that Ontario's more than 400 municipal sewage treatment facilities dump a mixture of four billion litres of sewage and water into our waterways each and every day. Included in that sewage is a vast array of toxic wastes which threaten the health of not only our flora and fauna but also the citizens of Ontario.

This problem has dragged on too long. Immediate steps must be taken to ensure that the municipally owned and operated facilities are able to comply with appropriate anti-pollution standards. Where necessary, funds must be made available to ensure that this goal is met. Standards are of no use if money is not available to bring these facilities to the point where they can comply with the standards.

Finally, I would be remiss if I did not at least mention the municipal liability insurance problem. The cost of obtaining liability insurance skyrocketed in 1986. Increases of up to 500 per cent were not unusual, and 300 per cent was the average. Some municipalities faced premium increases of up to 2000 per cent, and municipalities found themselves scrambling to obtain comprehensive coverage. Many found that coverage declined even though premiums increased.

The government has initiated studies on this issue. It remains to be seen if the recommendations suggested by the Slater commission and by the report entitled Municipal Liability Insurance in Ontario will be implemented. Action on this issue is of the utmost importance. It is imperative that the government act quickly and decisively on this issue. Studies will not alleviate the crisis.

In conclusion, thriving and vital municipalities are a valuable resource which the government of Ontario must at all times seek to enhance, protect and preserve.

Mr. Breaugh: Let me begin by trying to say some nice things about the ministry programs. I

always try to give a little balance. It is a bit of a search to find some nice things, but if you look hard enough, you can find them.

First, as a process move, making the grant announcements that early in the game is a major step in the right direction. At least municipalities will now be able to go through their budgetary process knowing what the grants for next year will be. They do not know them in total and most of them are saying that it is not enough, as might be expected, but at least they know the ground rules.

That has always been a major source of aggravation. Every municipality in Ontario would go through virtually its entire budgetary process not knowing what the support from the provincial government would be. At the very least, we have established in principle that municipalities deserve to know ahead of time what the province has in mind in terms of grants for municipalities in the forthcoming year. They will now be able to go through their budgetary process, which in most municipalities begins in September or October with staff workups of expectations for the next year in terms of programs and costing and usually winds up around March.

Normally, they would have been given some indication, but no definite announcement would have been made at this time. In fact, the common practice was that it would be well on into January, February or March before they knew what moneys would be coming from Queen's Park. For most of them, although they had to live with it, it was awkward to try to plan a budget without knowing what their support payments would be from the province. At the least, we have established in principle that those announcements will be made earlier. I think a not insignificant change will occur in the budgetary process because of that.

Second, I am aware that a number of municipalities, especially some of the smaller ones, are now taking advantage of a variety of support programs sponsored by the ministry. In almost everything you can think of that a municipality might have to do, from the use of computers to the training of personnel, the sharing of information and the comparison of programs, the ministry is now pretty active in that whole field. I want to commend the minister for that and encourage him to continue in that regard.

Many of our municipalities are not in the position of the big cities. They cannot go out and hire large staffs. Many of them used a lot of consultants or brought people in to advise them on a short-term contract basis. It got the job done, but many of us were not very happy with that process. For example, there are a number of official plans around Ontario that look remarkably alike except for the maps and the front cover. It should be no surprise that most of those official plans were put together by Toronto consulting firms, which did a very nice business going around to rural municipalities in Ontario with their standard, fill-in-the-blank official plan. That is hardly the way to go about the business.

The support programs, particularly those I have had a chance to look at, have been good ones. Most of the smaller municipalities I know are quite happy to receive that type of help. It gets them around what might be seen as an insurmountable problem. Many of our rural areas simply cannot have, and probably for the foreseeable future never will have, the size of staff to administer it properly. They will be dependent on co-operative projects, the sharing of information. They will be anxious, and they are now, to know what other municipalities have tried as pilot projects, as a different way of doing things. Those support programs are welcomed by a number of municipalities.

I have another favourite bugbear. For many years, there have been requests from a number of municipalities and public utilities commissions to change the Municipal Act to allow them to provide benefits for retirees. I am happy to note that just before Christmas, a proposal was tabled for changes in the Municipal Act which will allow that to happen. In a strange way, the previous government had agreed to do this when I talked to previous ministers, but it never made its way up the list for some reason and never did get changed.

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As a practical solution, it is the obvious one. A municipality that has a benefit package put together, usually a negotiated one, can very easily provide that coverage to additional people at minimal cost. It is not hard or expensive for them to bring retirees into that plan. On the other hand, for a retired individual of more than 60 or 65 years to try to get a benefit package on his own is often difficult and expensive. I applaud that move on the part of the government.

Having been so nice to you, let me get at a couple of other problems where I do not think you have a handle on things yet. I want to go back to financing again. I know this vexing problem has been approached in a number of ways, but I

think you will simply have to accept the verdict that municipal financing is now in trouble.

We have gone through a period where there was, to be polite about it, a restraint program under way. Municipalities across Ontario put a hold on major capital projects as much as they could. They slowed down the building of major roads, sewers and things of that nature, patched, repaired and upgraded as best they could, but did not build by and large. You are coming to a time where there will soon be a critical, noticeable difference to the public.

One of the things that has separated us from other jurisdictions has been a great pride in the standard of hard services provided by our municipalities. One of the first things people notice when they visit the US, for example, is that the roads do not work. They are patched, crooked and broken. The US does not have services such as we have in Canada. They do not have simple things such as sidewalks and street lighting, which are virtually unknown in their subdivisions.

A marked difference in the standard of services provided by municipalities is one thing which sets Ontario apart from many other jurisdictions. The Federation of Canadian Municipalities has done an inventory of how badly behind we are in the process. Every municipality I know could give you a long list of hard services which should have been provided several years ago.

Now the option of when to provide these services is being taken away from the municipalities, and they need the services now. They can range from simple sidewalk programs to things which may not be important to the entire population but are critically important to some, simple things such as access cuts on curbs for handicapped people. It is not expensive if you are putting in a new curb but expensive if you start to retrofit a whole municipality.

I believe the time has come when someone will have to do a major study on how we finance municipalities. I have listened for some time to people saying, "We will solve this problem by going to market value assessment." Of those who have done that, for whatever strange reason, some like it and some do not. Some say it removes some inequities and brings in others. All of them say it does not address the major financing problem. Some have argued against lot levies, imposts of various names.

You can say, "You should not be forced to buy into this; you should not be forced to prepay your service costs"; but most of the municipalities I know have it down to this blunt point: "Without lot levies, there will be no development. If we do not get the money up front from the development industry, we cannot afford to provide the hard services that are necessary to allow that subdivision to proceed."

It is fairly straighforward in most municipalities I know. You either accept a lot levy or an impost system which prepays the cost of those services or the subdivision does not go through. It is as straightforward as that. The latitude to make a judgement call, if you like, that the rest of that municipality ought to share in the cost of providing these roads and sewers and whatever other services it provides–that option is not there any more. I know most developers do not like lot levies. There are some citizens who are not too happy with them either. It does have an impact on the cost of a house.

In my municipality, for example, when we were faced with the hard decision of whether to shut down development in Oshawa or move to a lot levy system, we moved to a lot levy system. Oddly enough, the price of houses went down for a brief while. All that proves is that the marketplace determines the price of the housing unit. The lot levies have nothing to do with it.

When you come right down to it, even the most expensive set of lot levies would have to go like hell to catch up to inflation rates or profits for the development industry or rollover costs of land. There are major players and major dollars changing hands here, and in that stackup of things, lot levies come very near the bottom.

The larger problem of financing municipalities remains unresolved. People have tried user fees, lot levies and everything you can think of, all of which address that financial problem, but none of which do so in total. There is a large-scale financial problem that has to be addressed, and somebody is going to have to do that. I predict that very shortly you will see–in fact even now, many municipalities are taking a large look at the level of services and are starting to do what Canada Post is being defamed for doing.

They are trying to find different ways of providing those services. They are trying to move to different standards, and that is tough to do in this climate. When you are living in Georgia and you want to talk about a different way to pave a road, you have some options that you do not have if you are living in Timiskaming. There are some standards that have to be set, and they are dictated by climate. That problem remains.

Let me touch on a couple of other things that have been bothering me over the year. A couple of years ago in Peterborough, they got into a bit of a local controversy about an economic development officer, what he did and what economic development officers are supposed to do, the expectations of the council and how that person goes about doing that job. This year, the controversy erupted in Hamilton. Somebody is going to have to take a look at economic development positions and at how municipalities compete with one another–and they do now–for economic development. What are the rules of that game?

You may recall that about a decade or so ago in Ontario, there were not any rules at all. A few of our municipalities decided they should do what they do in the US, that is, waive property taxes for a while, enter into sweetheart deals with industries, provide them with a whole lot of hard and soft services and give them incentives. Some even talked about joint ventures. All kinds of things were discussed. After a brief flurry of activity, most people sat back and said, "We are simply cutting our own throats." Industry will take whatever is going. That is fair game.

The rules have to be spelled out more clearly. Development officers do not have a clear set of rules. We do not have a game plan for Ontario, if you want to get cornball about it. We do not have an established set of criteria whereby development officers work together to develop regions. Most people will be a little uncomfortable with this process. When I was on a local council, one of the things that bothered me, and still does, was the question of what a development officer does. Is he a salesperson for your municipality? Does he market your city or town using brochures and any other means a salesman could use?

Some difficulties are being encountered in this field. It usually comes about over a controversy that might be dismissed as a personnel problem. A development officer runs afoul of his or her council, is fired and says, "I was doing my job the way I was told to do it." The council says, "No, you were not." A huge settlement package is put together, the golden handshake delivered and away the person goes.

That is going to become a critical problem in municipal government in the foreseeable future. As technology moves into the work place, the competition is going to get more and more fierce. You see a bit of latitude now because Ontario and the federal government, for example–and they are hardly models I very often quote on how to do things–are in that field, and they are offering the incentives. There are reasons that car plants are going into Quebec and Ontario. The federal government is working at developing those incentive plans.

I am amused that the corporate sectors sometimes cry that they are fierce advocates of free enterprise until it is their turn at the trough. Then they want to be socialists overnight; corporate socialists even. They want all the tax grants they can get. They want the government to pay for all their costs, if they can get them. They want the government to buy the land, service the land, train their employees and help them market their goods.

All I am arguing for here is a reasonable set of standard rules, which everybody will play by. A decade ago when we made our first run at trying to set those rules, we were aware of the problem. I am making the pitch now that it has been quite a while since those rules were set out. Many municipalities have found lots of ways to get around those rules. It is time to review that process again or the problem will be back, and it will come back in a form that we do not want to have to deal with, over some local scandal. That is not the way to resolve these things.

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Let me make one other pitch for my hobby-horses. I have a private member's bill that has got second reading that has to do with how a council functions, what kind of notice it gives and what kind of documents are available to the public. This is not a problem in most larger municipalities. They have procedural bylaws. They have local practices that, by and large, see that the public at the municipal level gets access to them. Usually most of us would say as a judgement call that the municipal level of government is far more accessible than either of the other two levels of government.

Still and all, it is true that the public does not have a right to attend council meetings. They have that right if the council decides they can be there, but there is nothing in the Municipal Act that gives them a clear right to attend. My bill attempts to address that.

Councils in most municipalities would not hold a meeting unless a reasonable amount of notice was involved. Some may advertise it in the newspapers, but most will simply publish it in the sense that they post a notice that there will be a council meeting tonight with the agenda of what will be discussed and what is before council. It will give the public reasonable access to documents as well. In other words, if a planning

document is being presented to a committee, as soon as it is presented the public can see it too.

Where most of them draw the line, as many of us who have been on municipal councils know, is that they have a tendency to provide you with pounds and pounds of paper. It becomes expensive to duplicate it and therefore most of them say: "It is in the clerk's office and if you want to see what the document says, you have access to the clerk's office. You can go there and read it and you can make copies of it if you want. We do not print it up and publish it. We are not in the publishing business."

Basically, my bill says, "Give the public the right of access to council meetings." You have to have some exclusions; we know that. No level of government would want to transact land sales, deal with personnel matters or settle contract negotiations in public session. That is very difficult to do, but it is not hard to draw up a list of exemptions.

I have circulated the bill around Ontario. I am reasonably happy with most of the responses and unhappy with some. I am happy in the sense that people are beginning to understand that at the municipal level you cannot conduct public business in private any more. That used to be the case in many municipalities. It was very often a closed-shop, clubhouse kind of thing. The decisions were made behind closed doors and then finalized in open council.

More and more of them are beginning to understand that this is not the way to proceed with a council's business. Some are understanding because they know that in this day and age people watch council meetings on cable television. It is ridiculous to broadcast council meetings and try to keep the committee meetings secret. Some are learning because of lawsuits, police investigations and allegations of improper behaviour. One way or another, councils in Ontario are going to accept the concept that council meetings will be public, that most of the documents will be public and that they will have to give the public a reasonable amount of notice if they want to conduct public business.

I was surprised and taken aback somewhat that a couple of councils said, "You are requiring us to publish our agendas and every document we have in the local newspaper." That is a little silly from my point of view. I am saying that you post in a public place, such as the clerk's office, a notice that the council or a committee of council will meet tonight. That is just commonsense protection for the council. It should not be trying to do things in secret. It knows it cannot get away with it. It knows there are people who will sue and take it to court. It knows it will be in hot water if it does a land transaction that is not absolutely honest and aboveboard. It will not get away with those things any more. The public knows what is going on, and more and more, the public in Canada is turning to litigation to resolve problems.

If you are upset that you might have to provide a notice that a meeting will occur because it is going to cost $25 to put an ad in a paper, if that is what you want to do, think of how upset you will be when the legal bills roll in from somebody who sues your council, and more and more people are doing that.

One way or another, either by changes in the Municipal Act, which is one possibility, or by the freedom of information act, which is currently before another committee of the Legislature, or by means of lawsuits or by means of outrage somewhere, this is going to happen. I regret that some councils do not accept that yet. They will when they are sued. They will when they are caught in some land transaction that is not quite the way it should be. In my view, it would be far better for them to recognize it now.

I understand that the Association of Municipalities of Ontario has a committee that is meeting on this, for which I am grateful. I understand most of its members want to reflect what the municipalities back home are thinking, and they are leaning towards local bylaws of some sort. This addresses one thorny problem with which I have had difficulty. I do not want to put a set of expectations on a small municipality that would be fairly reasonable for the city of North York but unreasonable for Vespra township, to pick one familiar example.

On the other hand, I am caught in this quandary. If a citizen of North York has a right to see the documents and to attend committee and council meetings, why does someone not have these same rights because he lives in rural Ontario?

The problem I am trying to resolve is not that difficult in my own mind. If a small township wants to advertise, it can. However, it seems to me the public has a right of access; that is all. It does not have the right to make the muncipality roll up big, expensive amounts of money prettying up all its planning documents, for example. Although I notice that after the documents are finalized, they all do that. I do not know why they would not be willing to let the public see what they are doing in the process.

I think there are solutions there, whether it is my little private bill, a change in the Municipal Act that might come next year, the Freedom of Information and Protection of Privacy Act or a recommendation from AMO. I do not care where it comes from. I think the time has come when we are going to have to say that, in 1987, in Ontario, a municipality that takes the time and effort to write a bylaw has to inform its citizens of the bylaw and provide them with a copy if they ask for it.

I know there are municipalities in Ontario today that keep their bylaws in handwritten form in a notebook in the clerk's office and you cannot get a copy. They are not even sure what the bylaws are. That is ridiculous. That is from another era. They are going to have to move. Perhaps the ministry could run a support program that would show them how to keep these things and file them, and would show them some techniques they might use to make these things accessible to the public. That is one thing the minister might put on his agenda for next year.

Let me deal a little with the Association of Municipalities of Ontario, which is one of my all-time favourite organizations because it is a vehicle whereby the municipalities can get together and, from a number of perspectives, respond to Ontario.

Many of them have this problem: It is tough for any one municipality. I suppose you could exclude the large urban centres but it is fair to say that most municipalities have a tough time keeping up with the province in terms of paper flow, ideas and responses to provincial initiatives.

I picked up three recent reports from AMO and I want to run over them briefly. I think they are useful and they happen to highlight three areas where I think there are major problems. I encourage you to proceed along these lines.

The first is the response to the provincial government's white paper, the Municipal-Industrial Strategy for Abatement, known in the trade as MISA. It goes at a major problem, what do you do with all the garbage and all the stuff that is generated by industry? Many of our municipalities are beginning to realize that they cannot dump it on the back 40 any more because there ain't no more back 40s, that some of this stuff is not suitable for being dumped, that our dump sites are full and that they have to find other solutions.

I was pleased to read the comments AMO put in here. I think some are very appropriate. I noticed they picked up on one thing I saw in there too. The province again seems to be putting on the municipalities things it will not accept for itself. It is putting restrictions and obligations on municipal government that the province does not care to fulfil. There is a double standard at work. What is sauce for the goose should be sauce for the gander. AMO is right. If you want to put this kind of requirement on the municipal level of government, that is fine, as long as you accept it as your responsibility.

I know it is not this ministry in particular that has done this a lot, but I remember when the region of Durham cranked up and the Ministry of the Environment was very happy to give us its treatment plant in Uxbridge because it was constantly in violation of its own regulations. It was more than happy to provide us with that, free of charge.

I think AMO is right. In general terms, they are addressing a government initiative that, in the main, is going in the right direction. You are going to have to follow through on that.

1650

I notice that such things as recycling that used to be very trendy now are getting untrendy. Recycling programs are getting to the stage where they are rather sophisticated. That means, my friends, that they are expensive. My little recycling project that picks up newspapers at the front of my house now is so successful that it needs a better building. It also is beginning to address recycling of things other than paper such as cans and bottles. We need to do that across the region. We need the funding for it and we need to have the programs in place. The reason we need it now is not that it is a trendy idea any more, but that it is survival. We have to find a way to sort garbage. We have to find a way to regulate industrial pollutants. We need to find a way to treat industrial waste.

I believe the process that is under way is reasonable. The government takes some initiatives with some wonderful new programs. I am happy to see that the AMO is responding to that. However, let us not leave the process there. Particularly in that field, it is a process that needs to be carried on.

The second matter I want to touch on a little is that they did a report on the report of the Minister's Right to Farm Advisory Committee. This gets at something that is even stickier. If you have recently attended conventions or conferences sponsored by AMO, you will know that one of the long-standing conflicts among municipalities is that from the rural areas they come and say: "We are farm municipalities. We basically

consist of the agricultural industry, as some folks call it now, or farms, as other folks say." People come from the cities and say, "We represent industry and housing."

The conflicts are growing every day. Farms do not get along well with neighbours in subdivisions and the strange phenomenon of people from big cities wanting to live in the country in subdivisions is growing. The odd thing about it is that they want to go out into the country with all that fresh air, but they do not want any country smells to come with it. God forbid that they should ever hear roosters in the morning. There are some facts of life you just have to live with. When you move to a farming area, you have to recognize that it will smell like a farm and that there will be animals making noises such as you hear on a farm because they are there. There will be guys pulling tractors and loads of hay up your road and you may have to slow down a little on your way home from the office that night.

I believe there is the beginning of a solution here. The process has carried on to a point where I would like to think Ontario has a policy on farm land. I can find the stuff in print, but I cannot find much action going on in that regard. I can tell you there is a basic conflict with land east, west and north of Metro that not long ago was productive farm land but now is growing very expensive houses. That process extends virtually from Niagara Falls to well east of Bowmanville.

The size and scope of the development industry that is hitting there now is quite immense. There are absolutely huge tracts of housing and with that comes huge transportation and planning problems, and they are abutting farms. The conflict over whether we are very serious about preserving farm land and whether we are very serious about preserving farming operations as viable operations has not been resolved. The AMO report is one step in a longer process, but the process is long from being resolved.

Finally, let me talk a little about the AMO report's response to Issues and Options: An Interim Report on Municipal Elections in Ontario. I had a chance to meet with the minister's advisory committee and give it my personal opinions on various matters having to do with municipal elections. There is one way in which I disagree with some of the findings of AMO. I am not terribly sure there is not a good argument for having a commission to deal with municipal elections. I think that is a fairly reasonable option. I anticipate that at some later time in the estimates the minister will respond as to when we might see the final report and what the shape and nature of it will be.

I am very interested in all that; so is AMO. Although I might disagree with some of their recommendations, in large part I see them as being fairly supportive of the recommendations as previously tabled. I think there is a recognition that municipal government is just as important as any other level of government and the electoral process that goes into it is just as important as well. If we have accepted fairly stringent regulations at the federal and provincial levels, and we have, then those things are due to happen in some form or another at the municipal level.

I do not believe anyone is ever going to write the report that gets the voter turnout at an all-time high all over Ontario. Frankly, I do not understand the voting patterns of municipal politics in Ontario. Some municipalities regularly draw a voter turnout of 75, 80, 85 and in some cases 90 per cent, while others such as my own regularly draw a voter turnout of 16, 20 or 29 per cent. On a good day, 30 to 40 per cent of the people in my municipality decide who runs my city. I find that a discomforting thought. However, I must admit that when you go to vote in a municipal election, in my area it is very confusing. They hand you four or five ballots with a long list of candidates and there is not much of a chance you are going to know who those people are. There is almost an abdication of responsibility there.

I do not know how we will resolve that. I do not think there is a quick solution but I do think that the report of the advisory committee is worth while looking at and the response from the Association of Municipalities of Ontario is worthwhile doing. I anticipate that the minister will make some major changes in municipal elections this year. At the very least, I anticipate that there will be some public accountability for the financing of municipal election campaigns.

One of the best kept secrets in this country is who sponsors municipal candidates. How much does a municipal election campaign cost and who contributes to that campaign? We do not know. Some of our municipalities have tried little bylaws that say voluntary disclosure is the way to go and there are actually a few candidates around, probably not more than a couple of dozen in the whole province, who actually provide some information as to who gave money to their campaign. Most of them do not. That is no longer appropriate. I am going to commend that report to the minister. I ask that he give us a

bit of a response, perhaps on the three reports; I am particularly interested in the election one.

By and large, the people who work at the municipal level in an elected capacity have a tough job. For the most part, they are trying to combine some other kind of career with the responsibilities of elected office. There is good and bad to that. I notice that in many of the municipalities the bureaucracy is growing. While I am not a big fan of bureaucracy, I do not have a hatred of it either. You need good staff and you cannot function properly unless you use some expertise and have some people around to help you.

I am somewhat saddened that more and more municipalities are faced with making judgement calls on huge documents when they have not had much of a chance to read or understand what is in the documents or what they need in the long run. I have some concerns about that. However, by and large, I feel that at the municipal level we are reasonably well served. With a few adjustments here and there, most notably access to information and access to council meetings, perhaps that would turn around the apathy that seems to reside in most of our citizens around municipal elections.

To conclude on one little tidbit I noticed in the AMO report, there is a continuing controversy concerning resignations or when someone moves to another town or quits for whatever reason. Should you bother with an election? I have listened to that amazing argument for years. They give you all kinds of good reasons why you should not bother with an election, that it is inconvenient and will cost money. We know that. Federal elections are inconvenient and cost money too; so are provincial ones. Think for a moment. If your federal member resigned, what would people in your riding think if the federal Parliament said: "Wait a minute. We do not want to go through with this inconvenient, democratic process. Let us appoint someone we know to the federal House of Commons for the remainder of the term." People would go nuts and say, "You cannot do that."

What if someone resigned provincially? We have had a few who have resigned. What if we said, "Instead of calling by-elections for all our former Tory friends who have now gone on to bigger and better things, we will just sit around and pick some of our friends"? I know some guys who would be good members. I know a couple of women who are up-and-coming people in their communities. They would be just dandy. We would not have to bother with by-elections at all. We could appoint somebody to the Legislature for the rest of the term.

I do not understand that. Democracy is awkward, it is expensive, but it is the process whereby we elect people to represent us. That one still has not been put to bed.

With those remarks I will close. Perhaps we can have a little response from the minister and still have time to see the demonstrations for today.

1700

Mr. Chairman: I thank both party critics. The minister may now wish to respond to some of the questions raised in the comments you have brought to the attention of the committee.

Hon. Mr. Grandmaître: I want to thank the member for Brock (Mr. Partington) and the member for Oshawa (Mr. Breaugh). I thought their remarks were very good.

Mr. Breaugh: Too soft.

Hon. Mr. Grandmaître: No. They served as a reminder to me that the job is not finished; we are only starting.

Maybe I should start with the autonomy that the Minister of Municipal Affairs is trying to give to municipalities. I agree with both members that it is fine and dandy to say, "We want to give you more power and there you go." You need financial assistance and you need better laws before you can transfer these powers to municipalities. Having spent close to 15 years in municipal politics, I know exactly. I used to criticize former Ministers of Municipal Affairs and say they were passing the buck. That is not my intention.

My intention is to work with municipalities and transfer these powers, if there is adequate funding behind it and proper laws. I know planning is a very touchy issue right across this province. We worked on the Planning Act and amended it back in 1983. We were willing to transfer some powers to the municipalities, but some municipalities are finding it very difficult because of lack of dollars and lack of expertise, as Mike mentioned. I mean the member for Oshawa.

Mr. Breaugh: My name is Mike, and you can call me Mike if you want. I have been called a lot worse by a lot more.

Hon. Mr. Grandmaître: You are quite right that we have to provide the municipalities with the expertise as well. Our municipal office people are doing exactly that.

Both critics referred to the lack of open municipal council meetings. I have been preach-

ing for 18 months that every municipality in the province should have a procedural bylaw to prevent human errors and also to prevent some of the more serious errors we have seen happen in Vaughan and other municipalities. My office people do promote procedure bylaws, which will come, but a little more voluntary work is needed on the individual municipalities.

If I may refer to infrastructure, I know both members are well aware of the Federation of Canadian Municipalities report. The member for Oshawa has read it from page 1 to page umpteen. We all recognize that the provincial government has to be a better provider of infrastructure services, such as road and sewers.

I believe we have demonstrated this in the last couple of years, because in my first year we provided municipalities with an additional $30 million, over and above the special grants, for transportation and for roads. We repeated this in the following year. It is my intention and the government's intention to provide better unconditional grants, not only for roads and transportation but for other services too. This is why we initiated the announcement of these unconditional grants two years in advance.

The member for Oshawa is quite correct; it gives municipalities ample time to better plan the future needs of municipal services. All these things take time, but I can assure you, with the lack of federal funds–as you all know, since 1960 the federal government has been decreasing transfer payments to provincial governments for infrastructure uses, and in 1980 or 1981 abandoned them completely. That put a real burden on every provincial government and on every municipality in this province and right across Canada to provide adequate services.

At our last meeting of ministers of municipal affairs, I was appointed chairman of the ministers of municipal affairs in Canada. I have not been able to meet with the feds and talk about this infrastructure funding that is needed but we have been in touch with Minister of Consumer and Corporate Affairs Michel Côté. Since the first week in December, I have been trying to get in touch with Bob de Cotret in Ottawa to talk to him about the needs of infrastructure funding across this province. My colleagues across Canada are willing to meet with the feds and explain to them the need for more funding.

I believe the member for Oshawa and the member for Brock alluded to our relationship with the Association of Municipalities of Ontario. I can assure the members I am very pleased with our relationship with AMO. We do not always see eye to eye, but at least I get their viewpoint. I have promised them I will continue this kind of dialogue or this kind of relationship as long as I am Minister of Municipal Affairs, because I believe it is needed. AMO has been doing a very good job.

For instance, this week I will be meeting with AMO and I believe a good number of ministers have already met with the AMO executive. This Thursday, the Minister without Portfolio responsible for senior citizens' affairs (Mr. Ruprecht) will be addressing the needs and concerns of AMO. They met with the Minister of the Environment (Mr. Bradley), the Treasurer (Mr. Nixon) and a good number of ministers and I believe our relationship is very good.

I guess the latest meeting was with the Minister of the Environment. Members have alluded to the environment and to the need for better supervision. You have also talked about the municipal-industrial strategy for abatement program. I believe this is very important. A lot of responsibility is now shifting to municipalities because the Minister of the Environment is committed to having a clean environment in this province as soon as possible and this MISA program will certainly help this province to become much cleaner.

We are putting a lot of responsibility on the shoulders of municipal governments and we will have to back them up financially if we want a cleaner environment. Last year the Minister of the Environment provided local municipalities with $175 million to pay some of their debts on sewer and water plants. I thought this was a start and I hope we will be able to do more.

1710

We all know how expensive liability insurance has become, not only to municipalities but also to almost every business and every enterprise in Ontario and across Canada. I can assure you that my committee responsible for looking into liability insurance has done a very good job. It is now in the hands of Dr. Slater and I hope we will resolve some of the problems. I am not telling you we will resolve every one of them, but the reciprocal insurance that is being talked about, pooling insurance, will resolve some of the problems and I hope the cost of liability insurance will diminish.

I want to refer to lot levies for a moment. They are very important, because we are talking about putting more burden on municipal governments. Lot levies are a very important form of revenue and I have been meeting with the Urban Development Institute, the Ontario Home Buil-

ders' Association and AMO to try to find a common denominator acceptable to all of them.

It is very difficult. They have been working very hard for a number of months on soft services and hard services and on what their costs should be. I thought for a while that all three parties had come very close to an agreement, but they are still apart. They have to do a hell of a lot more work to improve the situation. I hope I will be able to stand up within the next six months and say that AMO, UDI and the OHBA have resolved their differences.

On the subject of economic development, the member for Oshawa is quite correct that the responsibilities of development officers are sometimes misunderstood, the salesmen, promoters and so on. He mentioned the bonusing that went on in some municipalities when they were bidding to get the next car manufacturer in their backyard. Bill 112 will prevent some bonusing. The Municipal Act was very loosely written when it came to prohibiting bonusing. It is much tighter now and development officers will know exactly where they stand.

A bulletin has now been circulated to explain in detail the intent of that legislation, so I hope we will resolve the bonusing problem.

The member for Oshawa referred to his private bill on procedural bylaws. I know you have been very active on that and I think you are going to go a long way because AMO accepts part of your bill.

Mr. Breaugh: I am always on the front edge.

Hon. Mr. Grandmaître: We have come a long way in promoting good government. It is hoped your private bill will enlighten or promote good government.

Finally, what can I tell you? We do have a government policy and we are trying to respect that policy. At the same time, municipalities needing extra dollars and economic development are much more open when it comes to amending official plans and converting farm land to residential use and so on. We try to keep an eye on this. We try to be as restrictive as possible and to live by the laws of the land. It is difficult but I can assure you we are aware of what is happening and will continue to monitor the success or lack of success of some municipalities.

I think that is about it. Perhaps there are questions.

Mr. Breaugh: Play the videos. Do we get to call for requests on these or do we have to take what you present?

Hon. Mr. Grandmaître: Do you have any questions?

Mr. Breaugh: I am anxious to see the videos you have for us. It will add a little light to the proceedings. I may be disappointed with the content.

The Acting Chairman (Mr. Rowe): We will go to the videos then.

Hon. Mr. Grandmaître: The first is the program for renewal, improvement, development and economic revitalization–PRIDE, as it is known. It has been expanded to include all older sections of Ontario municipalities. I would like now to introduce the director of the community renewal branch, Peter Boles, who will explain the new program to the committee.

Mr. Boles: As the minister mentioned in his opening remarks, the new PRIDE program provides municipalities with significant opportunities not available with the previous community improvement programs. ONIP and CAIP, the Ontario neighbourhood improvement and commercial area improvement programs, were restricted to areas of predominantly residential and commercial land use. The new PRIDE program can be applied to any area of the community demonstrating signs of physical, social or economic deterioration. We are aware of a number of municipalities that are currently developing applications for PRIDE funding for older industrial areas and for waterfront applications.

The new program has been almost universally supported by municipalities since the increased flexibility allows them to address their community improvement priorities specifically and it is also considerably simpler in terms of program administration. The audio-visual slide show that we will run now was produced to assist staff in explaining the concept of comprehensive community improvement as well as the new PRIDE program. It is being used extensively across the province with municipal councils and at various planning workshops and conferences.

The committee viewed an audio-visual presentation at 5:20 p.m.

1726

Mr. Boles: I have a couple of comments, Mr. Chairman. The municipalities are currently in the process of putting together applications for the first allocation year of PRIDE which will be the 1987-88 program year. We have sent out application forms to 180 municipalities and we expect well over 100 applications. The demand for the program certainly reflects the municipal support.

The Acting Chairman: Any questions?

Mr. Breaugh: If you want to get the show on before six o'clock today, you probably should show the films in order.

Hon. Mr. Grandmaître: The next one is on a financial analysis of a municipality. It should be 10 or 12 minutes at the most. Winston Easton, manager of our Cambridge field office, will show how the system assists our local field office advisers to perform a financial analysis of a municipality.

Mr. Easton: Field office advisers perform financial evaluations on municipalities at the request of several organizations: our own ministry, the Ministry of the Environment, the Ontario Municipal Board, the Ministry of Tourism and Recreation, the Ministry of Northern Development and Mines, the Ministry of Industry, Trade and Technology and municipalities. There are several reasons that they are asked to perform these financial evaluations. Typically, the purpose of the request will be concerned with municipal debt capacity, impact on future capital works and comparison of costs.

I want to demonstrate to the committee this afternoon the process one of our field office advisers would go through to evaluate a request for special assistance. Information stored in the municipal analysis retrieval system data bank–MARS for short–will be used to provide basic historical, financial and demographic comparable information to the adviser. Although the MARS facility is comprehensive, it does not give all the answers. The adviser must include his or her understanding of the current situation based on local knowledge.

With the assistance of the microcomputer and some of the MARS capabilities, let us see how our field office adviser would use technology as an analytical tool. In this example, the town of Eastville has made application for special assistance to the ministry because of a concern regarding a loss of tax revenue due to a major fire and resulting assessment loss. The estimated revenue loss was approximately $180,000 for a population of 24,000.

Special assistance is available to municipalities where the taxes are unduly high or unduly increased because of a substantial loss of revenue, a change in legislation, an unforeseen commitment imposed upon a municipality, expenditures or anticipated expenditures related to an amalgamation or annexation in circumstances beyond the control of the municipal council of a unusual or special nature.

Special assistance is normally recommended where losses cause an unduly high increase in the municipality's annual own-purpose tax levy. When reviewing the situation, we determine whether the municipality can absorb the impact without being unduly burdened. The program is not used to top up other grant programs. If all this technology works properly, I will give you an explanation of what is happening on the projection screen in front of you.

To begin the procedure, the adviser types the word "reports" and the computer asks if a display of available reports is desired. If the adviser answers yes, several menu choices are displayed. There are a variety of reports available. The one we are interested in is number 3, for financial evaluators. We will select report 3 here to access financial evaluators. There are three additional options within the financial evaluator section: the standard financial evaluation, a five-year simulation of the impact of a large capital project or both. We will select E to form a financial evaluation.

Information messages appear next, identifying who the contacts are if there are questions regarding income data or suggested improvements to the financial evaluation procedures. Each of the 839 municipalities has a unique, five-digit code number. We will enter the code 18401 for the town of Eastville, the municipality under review.

The next question asks the year to be examined. Municipal financial statements are prepared on a calendar year, so the latest complete year reported was 1985. Comparisons will be made with the past five years. Once the year has been identified, the selection process begins. The data bank of information is now being searched to retrieve some basic information on the town of Eastville.

The municipality has been found, and basic information for the municipality is displayed. The population, the number of households, the assessment mix, that is, the percentage of residential assessment to the total assessment in the municipality, is shown. A simple measure of spending is also shown, in this case, spending on a per household basis.

Staff may have preselected a sample based on their local knowledge, but if they have not, the computer can assist in finding comparable municipalities. After answering no to the next question, various selection criteria are offered. For this demonstration, we will select on the basis of population. We will look for municipalities that have a variance of 30 per cent, that is, their populations are within 30 per cent of Eastville's 1985 population.

We will also select by households, because of the service implications, and, again, we will choose a 30 per cent variance. We will also choose on the basis of spending per household, because we want to see if there are municipalities comparable to Eastville both in size and in spending patterns. We will also choose a 30 per cent variance. We will not select on the assessment mix, because we already know that the issue under examination is loss of revenue.

Police services for Eastville are provided by the upper tier or the region, so we will not require data on comparable municipalities who have their own police forces. In addition, we will not require the comparable municipalities who have expenditures on their own water and sewer services, primarily because the region may be providing the service.

The selection options are now complete. For approximately the next 30 seconds, the computer will be performing the following tasks: searching all 839 municipalities, finding all those that meet the selection conditions that have been entered and restricting the selection to the municipalities with the same type of municipal organization structure, for example, county, region or district, and the same type of municipal status, for example, towns.

A large number of municipalities have been selected. It is now up to the field office adviser, based on his or her local knowledge and on the knowledge of different financial and other conditions that exist among municipalities, to exclude or include these municipalities. The information shown for the selection of municipalities by population, households and spending, falls within the limits we have chosen. If the adviser is not happy with the results, the selection procedures can be repeated with different criteria.

In this example, we are going to exclude the town of Ajax from the sample group, because it was one of the fastest growing municipalities in 1985 and not relevant to this analysis. We will, however, include the other municipalities the computer selected. We will also add another municipality by entering the five-digit code 18104 for the city of Welland, because the municipality under study has a high influx of summer residents to service cottages. This means that while its current population is only one half that of Welland, a comparable reflecting a higher population should be included.

The field adviser is now ready to proceed to the next step, which is the processing of the financial evaluation. Let us now proceed with the reporting procedures available to the field office adviser. Several types of analysis can be performed: a detailed report can be produced which gives a 40-page analysis with social, economic and financial operations of Eastville compared to the comparable municipalities selected; a summary analysis can be produced comparing key financial indicators to the same municipalities; and both a detailed report and a summary report can be produced. We will select the standard text report.

The standard text report is a draft evaluation report on the municipality selected, in this case the town of Eastville. The report is produced by the main-frame computer and is transferred to the microcomputer in the local field office for finalization. The adviser can add any additional comments he feels are appropriate based on his knowledge of the local situation and interpretation of the results. There are two key benefits of operating this way: it provides a consistent framework for performing financial evaluations across all 10 field offices and substantial savings in time and costs. After answering a few remaining questions, the analysis begins.

The analysis now taking place includes comparing the town of Eastville with other municipalities in the sample and against the sample average over a three-year and five-year time frame; comparing Eastville with other groups of towns, for example, towns and regions in the province; producing a detailed analysis; extracting from the detailed analysis certain statistics to be included in the draft report, for example, percentage comparisons; interpreting the results, for example, long-term debt for Eastville represented $617 per household and was higher than that of the sample group which averaged $347 per household.

Typically, the computer requires approximately two minutes to complete the process and it will cost approximately $60. Deferring the computer processing by 48 hours would reduce the cost to $15.

We are now ready to look briefly at the ensuing standard text report produced and consider a number of other factors that affected the decision on whether special assistance will be provided to Eastville. Everything you see on the screen will not be commented on in the interests of brevity. All factors shown will have been considered but some are rejected as not being relevant. I have highlighted the key factors for you by enclosing the text in a box.

In subsection 2(4), note that the commercial-industrial assessment business space is consider-

ably higher than that of the sample group. It is this space that substantially determines the ability of the municipality to provide services. Further, our own review determined that assessment growth in the municipality was higher than the growth in the region, particularly in the commercial sector.

In section 3, while the municipal service charges for the municipality were lower in dollars per average household in the sample group, they represented a higher percentage of income.

In section 4, tax arrears were decreasing and, while still above the average for comparable municipalities, indicated that the administration of tax revenue was being attended to by the municipality and that taxes were being collected.

In section 5, although subsection 5(6) indicates that the municipality has only $27,000 remaining debt capacity, this figure is arrived at after taking into consideration future capital expenditures of $8,170,000 as indicated in subsection 5(7).

Upon further review, it was determined that the municipality repay approximately $1.5 million over the forecasted period. Also that a significant portion of the capital expenditures will be funded by grants, reserves, reserve funds held by the municipality and current revenues, reducing substantially the amount to be borrowed. However, the figure of $27,000 would warrant field office investigation.

The other sections are not particularly relevant. Subsection 6(3) indicates a transfer to reserves of 15.2 per cent. In subsection 7(3) you will note that only 10.3 per cent of capital expenditures are funded by borrowing in this municipality, the balance being paid from resources I referred to earlier.

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In section 8, the municipality has reserves for households that were lower than the sample average. However, the reserves held by the municipality were substantial at $2.6 million, which represented nearly 60 per cent of its own-purpose levy. Reserves were raised by $700,000 over the previous year. Reserves were being built at a substantial rate in the budget process. The levy itself had increased only marginially. The annual interest on the reserves alone would more than cover the $180,000 loss.

A very significant portion of the reserves are committed to specific purposes, as is indicated in subsection 8(3). It should be pointed out that council has the authority to use these funds for other purposes.

In section 9, for several years the municipality had increasing operating surpluses. The 1985 surplus is nearly twice the amount applied for under the special assistance.

The tax loss itself was not of an unusual nature and would not appear to have caused the municipality's taxes to rise to a level where assistance is necessary to avoid a financial crisis. The impact could easily be absorbed from accumulated surpluses and uncommitted reserve funds. There is $2.6 million in reserve funds. The impact does not jeopardize seriously the municipality's financial wellbeing and the economic conditions in the municipality were generally improving; there were increases in assessment. Special assistance would not be recommended.

The analysis and reasons for this decision would be discussed with the municipality. While special assistance was not appropriate in this case, there are cases such as the town of Deseronto where special assistance was given when the two major industries in town closed and a resulting tax increase would have created an undue burden on the ratepayers.

In summary, I hope the procedures shown here this afternoon provide a clear understanding of how the ministry's field office advisers would complete a municipal financial evaluation.

Mr. Breaugh: Is there one more presentation this afternoon?

Mr. Chairman: That is in the hands of the committee. If you wish to have a third presentation, I believe we can do that.

Hon. Mr. Grandmaître: George Manios of the ministry's local government organization.

Mr. Manios: The following slide presentation will describe briefly the activities of the committee.

The committee viewed an audio-visual presentation at 5:44 p.m.

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Mr. Breaugh: In the few minutes remaining this afternoon, could the minister respond especially to that last one? That report was due to have been completed by the end of last year, 1986, and I am anticipating it is somewhere in the works. When might we expect that final report to be tabled?

Hon. Mr. Grandmaître: March 1987, if I am not mistaken. I should have received all the submissions by February.

Mr. Breaugh: February of what year? I have been here long enough to know you have to ask that.

Hon. Mr. Grandmaître: The year is 1987.

Mr. Breaugh: February of 1987. So what we just saw was a lie; it will not be finished by the end of 1986. It may be finished by February 1987?

Mr. Fleming: As promised.

Hon. Mr. Grandmaître: Yes, we are–

Mr. Breaugh: Wait a minute, somebody said, "as promised." We anticipate that a final report will be tabled by February of 1987. When will we see the minister's response to that final report?

Hon. Mr. Grandmaître: I am hoping for legislation–I should not say I am hoping; I will have legislation for this fall, 1987.

Mr. Breaugh: The fall of 1987.

Hon. Mr. Grandmaître: The fall of 1987, so that municipalities or clerks and so on will be ready for the 1988 municipal elections.

Mr. Breaugh: My problem basically is the time frame. It is getting backed up already. I think it is everyone's intention that whatever reforms might go through would be in place and operative for the 1988 elections. I caution you that if we are not getting around to legislative changes even being introduced until sometime in the latter part of the spring session, we will get backed up even more. I seem to recall a few other far less controversial items that were introduced more than a year ago and just got cleaned up this fall. It can take a long time to get the legislation done. Should someone be rude enough–this is unthinkable–to interrupt this whole democratic process with a disgraceful shame of electioneering, it may not happen.

The delay which in normal circumstances might seem appropriate would be my concern. In these circumstances, I think we should be aware that if we want something in place for the 1988 municipal elections we have an obligation to deal with that probably this spring. There will also be a fair amount of information that has to go out to the general public, to clerks, to people who are elected now and want to be elected the next time around, more than a year in advance. I am sure there will be municipal officers who will insist that they have more than a year's notice.

Hon. Mr. Grandmaître: I am planning to make an announcement at the Rural Ontario Municipal Association convention–

Mr. Breaugh: That ought to do it.

Hon. Mr. Grandmaître: –in February of this year, so I think we will be able to respect the initial timetable. One of the reasons the report was delayed was because of the Christmas and New Year's holiday.

Mr. Breaugh: We have those a lot; almost every year there is a Christmas and New Year's. They are not unforeseen events.

Mr. Chairman: We have them on a regular basis.

Hon. Mr. Grandmaître: We have not looked at municipal elections in 42 or 43 years. I intend to respect the deadline of September or October of this year; I will be introducing legislation.

Mr. Breaugh: If I could pursue this just for a moment, why does it take so long for you to introduce legislation? The contents of the interim report are known; the contents of the final report, though there may be some surprises, I do not think will contain any real surprises for you. Why is it going to take you another six months after you get a final report to even introduce legislation?

Hon. Mr. Grandmaître: The municipalities wanted more time. That is the only good reason I can give you.

Mr. Breaugh: So today's version is that it is the municipal level of government that is at fault, which is a variation on the usual theme that it is the federal government's fault.

Hon. Mr. Grandmaître: They figure it is very important and they need time to address the matters.

Mr. Breaugh: In fairness, I did notice that in circulating the interim report, a number of public utilities commissions wrote me and said they had not received copies of the report, so they would have been unable to respond.

Mr. Chairman: We have a couple of moments remaining before this committee's business will come to an end for this evening. Are there any questions for the minister? We will open it up for anyone who wishes to address a question. If no one wishes to address a question to the minister, the chairman will take the prerogative of the chair and address a question to the minister.

Mr. Breaugh: The chair, right. He has been very good all afternoon and he is normally not that good, so let him have the last few minutes.

Mr. Chairman: There is not enough time to get into this subject in detail, but I wanted to inquire of the minister whether there is any sympathy within his ministry for some modification of the shoreline assistance program, recognizing that there has been an increase of $1.5 million put into the assistance to municipalities

which flows to private property owners. However, there is a very substantial backup of demand on the part of many municipalities that would like to see at least a modicum of assistance provided by your ministry to help alleviate the very critical, serious, virtually catastrophic problem that some of them are experiencing with respect to historically high levels of water.

I wonder if the minister could perhaps enlighten us as to which direction he may be heading with this very significant problem.

Hon. Mr. Grandmaître: Mr. Chairman, you are quite right. Possibly we could do more but I think in the last 18 months this ministry has done very well. Three and a half years ago the previous government thought we did not need such a program and it is only in the last 18 months that we saw fit to revive this needed program and also to invest more money in our shorelines. I can assure you this is not the end. I agree with you that only an additional $1.5 million was added to the program. The Treasurer (Mr. Nixon) is very much aware of the need for such a program and, with the assistance of my colleague the Minister of Natural Resources (Mr. Kerrio), I can assure you that this government will provide the needed dollars.

Mr. Chairman: Did I hear you correctly? Did you say this government will provide the needed dollars?

Hon. Mr. Grandmaître: I did not say how much, though. As you know, Mr. Chairman, within the next three months you will be having a report concerning the long-term strategy for shorelines. We will provide you with the needed dollars.

Mr. Chairman: I would almost look to the committee to ask for an extension of this discussion to pursue the subject in more detail but as I understand it, just for the record and to clarify this matter entirely, the minister is saying that applications for additional funding will be entertained by his ministry and he will provide the needed dollars for shoreline assistance to municipalities. Did I hear you correctly and was I paraphrasing with reasonable accuracy?

Hon. Mr. Grandmaître: You are quite right. We have been doing this for the last 18 months and we do not intend to quit. I hope this is the last time we will talk about the shoreline problem.

Mr. Rowe: Until tomorrow.

Mr. Chairman: I do believe I heard the bells go, unless someone was calling on the phone and I do not see a phone. Perhaps we should adjourn for this afternoon. If we attempt to resume our discussions immediately following question period tomorrow, I believe we can exhaust the final hours of this ministry and perhaps the minister as well, since there are only five hours to deal with these estimates.

The committee adjourned at 6 p.m.

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Ontario

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Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Municipal Affairs

Second Session, 33rd Parliament
Tuesday, January 13, 1987

Speaker: Honourable H. A. Edighoffer
Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, January 13, 1987

The committee met at 3:33 p.m. in room 151.

ESTIMATES, MINISTRY OF MUNICIPAL AFFAIRS
(continued)

Mr. Chairman: For those members who have just joined us today, in the two and a half hours of estimates we had yesterday we completed the opening statement of the minister and the statements of the critics, Mr. Partington for the Progressive Conservative Party and Mr. Breaugh for the New Democratic Party. The minister was responding to some of the comments raised in the critics' statements.

Hon. Mr. Grandmaître: Thank you, Mr. Chairman. You will recall that the last question came from the chair. It concerned the shoreline program.

Mr. Chairman: I do recall that.

Hon. Mr. Grandmaître: I would like to follow up on that. In 1986-87 we had a budget of $4 million. We budgeted $4.5 million for 1987. That is an increase of 600 per cent over 1985. At that time, the township of Sarnia received $200,000. That is when the water was very low.

Mr. Chairman: Lower than it is now.

Hon. Mr. Grandmaître: Lower than it is now.

Mr. Chairman: Yes, recognizing that we are now at historical highs.

Hon. Mr. Grandmaître: Was the money well spent? I am asking the deputy minister whether the money was well spent.

Mr. Chairman: I would like to hear the response.

Hon. Mr. Grandmaître: Yes. Same here.

Mr. Fleming: It was obviously well spent.

Hon. Mr. Grandmaître: You will also recall that we referred to lot levies, liability insurance and so on. We have Larry Close in the audience with us today, the municipal finance director, and also Milt Farrow, the assistant deputy minister, to talk about community planning and the Planning Act. Mr. Chairman, I am open for questions.

Mr. Partington: Mr. Andrewes and Mr. Gillies have two brief but very important questions. If they could start, I have talked to Mr. Breaugh, who is satisfied. I understand Mr. Charlton is as well.

Mr. Chairman: Yes. The chair would like to return to this question at some later point, but I will defer to my colleagues who have just arrived to raise some questions. Perhaps the member for Brantford (Mr. Gillies) would like to go first.

Mr. Gillies: Thank you very much. I appreciate the committee's indulgence because I am not a regular member of this committee.

Can the minister advise me of the status of the financial assistance that I understood was being negotiated for the victims of the landslide we experienced in the city of Brantford last year? I appreciate that this is a matter of split jurisdiction between you and your colleague the Minister of Natural Resources (Mr. Kerrio), and different programs and mechanisms could be employed in this matter. Can you advise me where that stands now?

Hon. Mr. Grandmaître: As far as the Ministry of Municipal Affairs is concerned, we have obliged the municipality involved, or the municipalities involved. Maybe I should ask the deputy minister where it stands at the present time and the status of the moneys that were promised to benefit the municipality.

Mr. Fleming: We are told that the cheque is in the process of preparation and should go out within the next couple of days.

Hon. Mr. Grandmaître: I suppose at the same time as the farm grant.

Mr. Breaugh: Are the same people processing these cheques?

Mr. Gillies: That is good news. Can you or the deputy advise the committee and me of the nature of the settlement? In fact, what kind of formula or program was employed for the assistance of these people? It might be of interest to other members who have experienced something like this to know how it is done.

Hon. Mr. Grandmaître: If my memory serves me correctly, you will recall that the municipality had started its own fund-raising campaign. The Ministry of Natural Resources and the Ministry of Municipal Affairs agreed that we would follow up on a one-to-one basis, to a maximum of $33,000 from the Ministry of

Municipal Affairs, $33,000 from the municipality and $33,000 from the community. It is one third, one third and one third.

Mr. Gillies: I have just one final question, if I might. The overall problem of the land erosion in that area is a substantial one for which we have estimates going into the millions of dollars for reparations. Are you aware of what steps are being taken by your colleague the Minister of Natural Resources concerning the larger substantive issue there?

Hon. Mr. Grandmaître: This question could be better answered by the minister himself, but I can tell you that the Ministry of Natural Resources monitored the landslide for a good number of days after the initial slide. However, I have to be very honest with you: I have not spoken to the minister. I can provide you with a more complete answer from the Minister of Natural Resources, though. I will follow up on that one.

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Mr. Gillies: That is fine. I appreciate that. Thank you.

Mr. Charlton: I would like to raise with the minister just briefly an issue that is causing me some concern about where it may lead us in the future. It has to do with situations we have seen here at the Legislature and are starting to see out in the municipalities: the issue of letting go of senior staff and of the settlements to those people in these circumstances.

We have had two situations in Hamilton. One was at the municipal level; the other was at the regional level more recently. A few years back, the board of the convention centre fired the manager of the convention centre. The board is a board of the city council. The gentleman in question who was fired took the city to court, sued for wrongful dismissal and won a settlement. The city was somewhat taken aback by that loss in court and by the substantial settlement.

More recently, just this fall we had a situation–it started during the summer, or some time before that, actually, but the issue became public during the summer–in which some of the council members started to raise serious concerns about the director of the economic development department and whether he was following the political direction of council. There was an investigation into that. The specifics were all kept very quiet, but the bottom line was that in November he resigned. It was a resignation. Negotiations obviously went on quietly behind the scenes, but he resigned and was handed a $150,000 settlement.

I am sure he is not very unhappy with that, but it certainly does not set a very good example for the general public, whom the councils for which your ministry is responsible represent. Somebody who worked on one of the sanitation trucks of that region would never have come away with any kind of settlement at all in a resignation situation. Maybe in a wrongful dismissal case, where he can go the grievance route and perhaps eventually to court, he may win a settlement for wrongful dismissal, but he certainly would never be handed a settlement in a firing case.

What I am becoming concerned about is some of the comments that came from the regional chairman and some of the councillors at the time the resignation and the settlement were announced. They were saying things such as, "This is just an average or normal settlement out there in the private sector." It is not. It may be an average or normal settlement in a private sector case, where an executive or the director of a department in a large corporation is fired, sues for wrongful dismissal and wins a case, but it certainly is not the situation that people who are let go for any number of legitimate reasons walk away with settlements of $150,000.

I am concerned that what seems to be happening is that politicians are running away from the situation I described earlier in the Hamilton case, where they fired somebody and lost a wrongful dismissal lawsuit. They are saying, "We do not want the lawsuit, so let us just settle."

Now they have even settled in a case where there was obviously a problem. Unfortunately, because this was all done behind closed doors, we sort of know the area in which the problem lay, but I cannot provide you with details, because they were never given to the public. However, where the director felt it was necessary to resign, not to fight this thing, it seems to me there is some kind of admission of a real problem, and yet there is a settlement of $150,000.

I am concerned about seeing that evolve into a regular habit and a pattern out there in our municipalities, and perhaps even eventually start moving up into the ministries here. It does not seem to me to be an appropriate kind of response in a situation where the council legitimately is not satisfied with the work of a senior staff person such as that and they have been through negotiations and cannot resolve it. Why should a

situation such as that be treated any differently from that of any other employee?

In this case, as I suggested, the original accusation that was made by some councillors was the question of whether the director was following the political direction that was set out for him by council. If you have hired somebody to do that and you can substantiate that he is not in fact doing it, then it seems to me the council has the right to say, "Okay, we are giving you six months' notice," or whatever. "We are not satisfied that you are implementing the policies of this council." That is the route we should be going as opposed to setting this kind of pattern for the future.

I am concerned that the kinds of things that are happening here start to become a regular occurrence and part of an accepted approach to the relationship between municipal councils and their senior staff.

Hon. Mr. Grandmaître: I think every one of us is concerned about these settlements, but you will agree with me that this is a very local issue. What the ministry has tried to do in the past three years is to send out a bulletin to the municipalities advising them, or warning them, about their firing process, because a lot of people were being fired for little cause, and naturally, they would end up in court. As you know, we have very little or no control over these court settlements.

What can I tell you? The ministry has tried, and is still trying, to educate our municipal politicians about the hiring-and-firing process. We are monitoring these court cases as closely as possible, and I can tell you that these court settlements, or court cases, are the minority; the minority are settled in court. We are trying to work with municipalities to prevent these things from happening, and we will carry on to improve this process and will work closely with the municipalities.

Again I must remind you that this is a local issue. Most local or municipal politicians are responsible people, and it is a matter of trying to educate them better about the process of firing and hiring.

Mr. Charlton: That is a good point. Let me follow up on a couple of things you have said. You are right: It is a local issue and it is not for your ministry to impose the ultimate decisions on the council.

My concern is twofold. You are talking about educating councillors and councils. Several of the councillors I have talked to were honestly led to believe that the kind of settlement they handed out in this case is a norm out there, and it is not. There is information that should be provided to municipalities about what the reality is and what the truth is. How many of these cases are actually being won in the courts where major executives are being let go?

They are under the impression that this is happening every day, all the time, because they see those few high-profile cases that end up in the media. They do not see all those in which an executive is let go for perfectly justifiable reasons and there is no settlement at all. I am suggesting to you that they are being led down the garden path. Part of what your education program has to be about is to provide them with clear facts about the real world out there.

The second thing, and this is more a question than a comment, is that you have implied in what you have said that you are trying to help them avoid the court cases. That is all well and good, but certainly you are not suggesting that handing out settlements in the first instance is the way you avoid court cases.

What we have to say to them is: "It is in your hiring and firing practices, the documentation of the job and the performance of the job, that the important part of protecting yourself lies. In a case where you can demonstrate that this person is incapable of continuing in this job, that is how you proceed, as opposed to this method of dealing with that problem." Just to say to people that they have to try to avoid court cases—what I do not want to see is the result, "We sure will avoid the court case and get a settlement any way we can."

1550

Hon. Mr. Grandmaître: I agree with you. What the ministry is trying to do and is doing is to educate municipal politicians and administrators to be very careful in their hiring-and-firing process. It is an ongoing program, and we will have to pay more attention. I agree with you that these cases and settlements are appearing in our newspapers regularly. We are trying to prevent them and we are very concerned. We are working with municipalities. Our educational programs have expanded tremendously in the past couple of years, and we intend to provide better educational programs to municipalities. I am sure this will be one of the most interesting subjects, the hiring-and-firing process of chief executive officers, treasurers, etc.

Again, it is a local issue, and we have to work more closely with municipalities to prevent these things from happening. I can tell you of four cases right now: in the region of Niagara, the treasurer and the deputy treasurer; in North York,

a planner, no settlement as yet; Etobicoke, the administrator, and it is a court case.

Mr. Polsinelli: Did you say the treasurer in North York?

Hon. Mr. Grandmaître: No. I said the treasurer in the region of Niagara. In London, the chief administrator, and it is a court case. We are very much aware of these court cases and we are trying to prevent them as much as possible.

Mr. Breaugh: Is it true the professional consultants who advise this government on the termination practices for the office of Clerk of the assembly are the same people who are advising you in this regard for municipalities?

Hon. Mr. Grandmaître: No.

Mr. Breaugh: Thank God.

Mr. Chairman: That is, however, an excellent question.

Hon. Mr. Grandmaître: Nobody has a lifetime contract.

Mr. Breaugh: I was worried there for a while.

Mr. Andrewes: I appreciate your indulgence and the indulgence of the regular members of this committee. I want to seek some advice from the minister on this rather important issue which involves radio towers.

You may recall last fall the Canadian Radio-television and Telecommunications Commission heard an application from a company called Westcom to change its signal and to relocate its transmission towers. They approved the application, which meant that radio towers would be erected on farm land in the Niagara Peninsula to serve, I believe, a listening audience in Richmond Hill.

The approval was given contrary to the zoning and official plan of the town of Lincoln, contrary to the official plan of the region of Niagara, contrary to the efforts of the provincial government in terms of preservation of farm land and certainly contrary to the cabinet order of 1979 that set out urban service boundaries for the Niagara region.

I made an appeal to the Minister of Communications, Flora MacDonald, with respect to this decision, as did the federal member and the mayor of Lincoln, and I invoked the support of yourself, the Minister of Agriculture and Food (Mr. Riddell) and the Minister of the Environment (Mr. Bradley) on this appeal. I subsequently received from you two letters, one acknowledging my letter and the second a copy of a very supportive letter you sent to the Honourable Flora MacDonald in which you pointed out, in your view, the irregularities of this decision.

You specifically noted—and I am quoting from the letter now, "The 1980 federal policy on land use requires federal agencies to consider the retention of high-capability agricultural lands in their decisions." A specific quote from that federal policy is: "The impact of policies and programs on land with high agricultural capacity will be considered. Appropriate action will be taken to minimize the conversion of such lands for uses incompatible with long-term food production."

Your letter to the federal minister goes on to say—and I am paraphrasing a little bit here, "I am respectfully requesting that the notification procedures of the CRTC be amended to include my ministry, the local municipality and the regional municipality and that consideration of land use impacts be built into CRTC procedures."

There are two issues on which I would like your advice. The first is that the response from the federal minister has been positive in this specific instance and the federal cabinet has ordered a new hearing, which will be held on March 3 in the town of Lincoln. Will you or a member of your staff be there to support the thrust of the letter you wrote to the federal minister and to support the town of Lincoln, the region of Niagara and the local member in having this decision reconsidered?

Hon. Mr. Grandmaître: I remind the honourable member that in the past, in regard to radio towers in the Niagara region or the Niagara Escarpment, I have always objected to these towers. I can assure you we certainly will keep our promise of what was said in the letter.

As far as being present at the CRTC hearings is concerned, have we considered being present at this meeting?

Mr. G. M. Farrow: We have not made a decision on that, but this is something we will do very soon.

Hon. Mr. Grandmaître: I can assure the member we are committed to following up what was transmitted to him, not through a radio tower but through my letter. We intend to follow up on this.

Mr. Andrewes: The other issue you might want to comment on is the issue of primacy of federal legislation. In this case, we have a federal body that has made a decision. Its mandate is to regulate the airwaves, not to regulate land use. In regulating the airwaves, it has brought to bear quite seriously on the intent of the official plan of the town of Lincoln and the Niagara region and

the intent of the activities of the provincial government to preserve agricultural land.

I do not know how you deal with these kinds of things other than to suggest quite strongly to the federal agencies and the federal government that when they hold these public hearings, they must consider issues other than the specific narrow-based issue of a particular agency, in this case the CRTC.

Hon. Mr. Grandmaître: Yes. I want Mr. Farrow to comment on this one, but before he does, I assure the member that I agree with him that better controls have to be implemented, and the federal government may under the Department of Communications Act–as you mention, it is a federal act. We as a government are very favourable to not only the case you highlighted to the federal minister but also other cases.

I know we are using up good farm land, and you know of the problem we are having with the city of Kanata and Ontario Hydro. We are still working with Ontario Hydro to try to eliminate such problems and to better inform the public where these towers are being erected. You will agree with me it is very difficult at present, especially in the built-up areas. Everybody wants electricity, everybody wants heavier industry, and we need electricity so it is very difficult. You are referring to radio towers, but I am referring to towers in general. We are concerned and we are keeping a close tab on the erections of these towers.

Would you like to add something, Mr. Farrow?

1600

Mr. G. M. Farrow: As Mr. Andrewes pointed out, the real crux of the matter is that this is under federal jurisdiction. The federal government is in charge of communications. The BNA Act gave it exclusive control over that, as it did with aeronautics.

We can hope we can have a breakthrough in the communications area, as we have had in aeronautics. While there is nothing legislatively changed, the federal government now, when it comes to the location of airports, by and large is consulting with municipalities to see whether they will fit in with local planning.

I am not suggesting that if there were a military airport needed in a certain place it would not be located notwithstanding the local concerns, but there is a process being developed where the local municipalities are going to have an opportunity to be involved in airport location. Unless there is an overwhelming national reason why an airport has to go in someplace, then the wishes of the municipality will be taken into consideration.

We hope we can get to the same position with the Department of Communications and the CRTC on how they decide on licences and locations of large transmitter towers. I know you already have one at Stoney Creek with five or six towers well spaced apart that take up a big chunk of land.

Mr. Andrewes: There are two in the town of Grimsby.

Mr. G. M. Farrow: Is that one in Grimsby? I guess it is.

Mr. Andrewes: The closest is in Stoney Creek. There are two sets.

Mr. G. M. Farrow: This is what we are working for, to try to have a process. I do not think we are ever going to be able to have control over the location of these towers or that they will follow the local zoning bylaws, but it appeared in the past some of them totally ignored the local concerns. They were not put into the hopper at all when decisions were being made on where the towers should be located.

In this case, as the minister pointed out in his letter, the federal land use organization has very specific instructions sent out to the various federal agencies that they must consider the preservation of good agricultural land when they are considering federal approvals. We hope this will be weighed on behalf of the local municipality.

Mr. Andrewes: I will refer to one more letter I undertook to write to the Federation of Canadian Municipalities and to which the federation responded. Mr. Gilbert wrote to the Honourable Flora MacDonald on December 19 and said, "The Federation of Canadian Municipalities is of the view that provincial and municipal land use in environmental guidelines should be respected by the CRTC when reviewing such applications." They are on your side. I guess there is a case; I cannot argue against the principle of primacy. We have to live with that situation. We are a nation, and when the federal government speaks, the whole nation must listen.

Mr. Polsinelli: Not recently.

Hon. Mr. Grandmaître: Not now.

Mr. Andrewes: At the same time, I find it very frustrating when municipalities and provincial governments go to great length to try to correct what they see as an injustice and to protect a resource base for future generations, and the federal agency makes a decision that impacts very seriously on that policy and does

not, in that decision, even acknowledge that it considered the issues of land use.

Mr. Haggerty: I have a supplementary to the question raised by my colleague from the Niagara region. We went through a similar process during the reconstruction of the Welland Canal–and I raised the matter a number of years ago–when they went in using official plans that each municipality had at that time and the county road system. They just flew over in an aircraft, said, "This is the land we want," and took it. They took much more than they required for the rebuilding of the new bypass between Port Colborne and Welland.

When you are going to have a good planning process such as they have in the Niagara region, even the provincial government must adhere to that plan as closely as possible. There should not be any exemptions. In other words, if they are going to come in, as they did in this instance, and say they want so much agricultural land to put up these towers, the regional plan should have been one of the factors considered before that decision was made. There should not be any exception for the federal people. If you are going to have good planning, all levels of government must adhere to the policies which are set and which there have been public hearings on.

Hon. Mr. Grandmaître: That is exactly what I am trying to do, especially with the Niagara Escarpment. I have been objecting to some of the decisions made by the commission for the simple reason that, as far as I am concerned, if it is not good planning or they are not adhering to the official plan, and let us face it, if we are going to have good planning, municipalities and the general public have to respect the fact that their plans must conform with the official plan or amend the official plan. That is the name of the game.

Mr. Breaugh: I have a few other matters I would like to raise. Maybe I can do two or three. Then if you have some, you can get in.

I am getting a little bit concerned now about what might be classified as interregional transportation systems. The minister will know that there are planning efforts being made for transit modes in and around Metropolitan Toronto. The difficulty is that the municipalities in and around Metro do not always agree on where these transportation routes should go, what type of transportation link should be put together, whether it should be road or subway or something else.

My prime difficulty is that we do not seem to be proceeding with those transportation systems where we have agreement, for example, GO Transit, east and west by rail. It is safe to say there is some arguing still over specifics of exactly where the rail lines will go, but there is consensus among the municipalities that there is a need for GO rail transit and the need becomes more and more apparent every day, particularly east of Metro.

I know that the same is true in the Mississaugas on the west side, but we are taking in housing at an unprecedented rate. Our highways are clogged now. After some discussion, I grant you, we have accepted the idea that GO rail is necessary and necessary now and each day. As I sit in the middle of the Highway 401 six-lane extravaganza, I recognize that there is a need for some other transportation linkage into downtown Toronto, and it happens every single day.

The acceptance of GO rail to the east and to the west, I think, is through all the councils in an official way. Is your ministry doing anything to expedite that project? I remind you that your ministry instigated initially, although you were not the minister then, the concept of regional government. As part of that package, you convinced the regional governments around Metro to accept a great deal of housing on a scale that certainly was not in the back of their minds.

I sat on that regional council and previously sat on the city of Oshawa council and looked at plans of subdivision for 75 houses, or if we had a real biggy, perhaps 200 houses. We were looking at people with proposals for 3,000, 4,000, and 5,000 units in a housing proposal. Those plans were approved some time ago and now are coming on stream. They are on the market now and they are going up very quickly.

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The pace of development has escalated substantially and the need for transportation modes has escalated accordingly. I am afraid that the agreed-upon GO rail transit system is not going according to schedule. A little further down the line will be the second phase of transportation links. We have direct conflicts on council now over whether it should be road transit, whether it should be extension of subway systems or whether alternatives should be looked at.

I would like to hear a little from your ministry staff on exactly what you are doing to get us through the first impasse of implementing what we have agreed to, the GO rail transit system. Then there is the next phase of making the critical decisions of whether we will go to subway systems, rail systems or expanded road systems. I would point out to you that the need is urgent

and is with us now. We have councils coming to opposite conclusions. On one side of the city, we have people on councils who are formulating positions now and are getting locked into wanting an expanded road system. On the other side, people who are talking about subway systems. These systems have to link up somehow.

This is further compounded by the fact that one can say we have an interregional transportation operating authority called the Toronto Area Transit Operating Authority. The missing link is that TATOA basically operates GO Transit. It has not done a great deal at building up the infrastructure; that is, the transit system that would pick you up at your subdivision and take you to a central point.

For practical purposes, if I live in the northern part of Oshawa and work in downtown Toronto, I will get up at six o'clock in the morning and hope to find an Oshawa transit system bus that will deposit me somewhere near a GO bus terminal. I will get on the GO bus system and move to the Pickering terminal. I will get on the GO rail system and move to downtown Toronto. I will get on the Toronto Transit Commission system and it will take me to my place of work. I will arrive there some time around nine o'clock, probably exhausted.

Hon. Mr. Grandmaître: The same day?

Mr. Breaugh: The same day; often, regularly.

What plans do we have to put together a transit system that might actually work? Are there any long-range systems? Are you considering any alternatives? People regularly talk about lake belt systems and about using hydro rights of way and putting in monorails. We are probably going to have to take a look at some of them. What has the ministry done and what is it doing to try to co-ordinate all this so that the roads hook up to the subways and the transit systems that you build have an infrastructure that will bring a local transit system into play?

In much of the region of Durham, and I think in York and Mississauga, there is the problem that there is no local transit system to hook into. There are some very large tracts of land now being developed into residential housing units and no transportation system exists. A clogged road system that now is having great difficulty dealing with the traffic flow is going to get much worse and this is going to happen very quickly. What are you doing about it?

Hon. Mr. Grandmaître: I think the Ministry of Transportation and Communications would be in a better position to answer all your questions and concerns. I am sure the honourable member will agree with me that transit systems are not thought of overnight, six months ago or a year ago. Some of them were planned 10 or 15 years ago.

As you mentioned, when you were a member of regional council you talked about these transit systems. I am sure that the Ministry of Transportation and Communications and the local and regional municipalities try to work in concert so that we can provide a transit system in those areas. It takes many years. I can use Ottawa-Carleton as an example. The Queensway has been under construction for the past 26 years. I am not kidding you; it is terrible. This is not only in Ottawa-Carleton; it is right across this province.

Perhaps the assistant deputy minister can address the issue of what the ministry is doing as far as planning is concerned. We are responsible for planning, especially for official plans and so on and so forth. Can you explain our responsibility when it comes to cleaning up these transit systems?

Mr. G. M. Farrow: We recognize that there are more than just transportation problems and that you cannot isolate one of these issues. It is entwined in community planning. We have a group that is not as active as we would like it to be at this point, but it is meeting and building up in intensity for the greater Toronto area. There is an opportunity for the planning commissioners from Durham, Metro, York, Peel and Halton to meet with me and some of my senior staff. We are trying to resolve the problems. Transportation is one of the things that is frequently on our agenda. We recognize that this is going to take more of our time. Our strategic plan, as the deputy was mentioning, will take more into consideration one of the goals, which is to get on the rails if I can use that expression for transportation, in this coming year.

It is something we have worked at for years. We recognize it is a role of our ministry. We are going to get more involved in it. In line with the studies the Ministry of Transportation and Communications is involved with on moving people and goods, I am involved on one of its committees and one of my senior staff is involved at another level, so we are keeping tabs on what is happening interministerially as well as interregionally. All the things you mentioned are good questions. However, as our minister says, they are really directed more to the Ministry of Transportation and Communications.

Living in Oakville, I am rather fortunate. I can get on an Oakville bus and deposit my GO train ticket at the corner. It lets me off at the GO train in Oakville which will get me to downtown Toronto. If I am ambitious I can walk up to Queen's Park or get on the TTC and ride the rest of the way. The system has been expanded somewhat in that there are more trains coming in from the Hamilton area and there are more through trains–one more, but more. It is a recognition that they have to move more people on that system.

Mr. Breaugh: The problem has emerged. We have spent a good deal of time and energy in the past decade expediting the planning process; for example, responding to the pressures of the development industry to provide approvals for official plans, for plans for subdivisions. We have approved building development in the regions around Metro at almost an alarming rate. I am taken aback by the scope of it.

As one who has been a participant at different levels in one way or another all the way through in the last little while, it is frightening to see whole tracts of land that last year were farms and this year are huge houses for two-car and three-car families. Those two or three cars hit the road every morning. The system is in bad shape now and my fear is that I know how much more development is under way already. A raft of problems is associated with that.

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For example, our municipal licensing process is set up with the view that the city of Oshawa or the city of Oakville or whatever can license everybody who runs a taxi, a truck, a chip truck or whatever within its city limits. When the urban sprawl becomes so great that you cannot find the dividing line between Oshawa and Oakville, and you really cannot in development terms, anybody who gets a licence anywhere to put a sign on the roof of his car that says "Taxi" can, for all practical purposes, go that whole scope and run a business, and they do. Once they are licensed in one of those areas, for most practical purposes, if they want to run a trucking company, a taxi company or a limousine service to and from the airport, it is very difficult after the fact to try to pick it up or try to do anything about it.

Of course, we pay people. The licensing commission actually does pay people to run around and chase them up and down the streets, but all they have to do is stop the car and say: "I am not running a limo service here. I was just in to see my sick mother." You cannot do anything about it.

There are immense problems associated with that. The difficulty I have is that I would like to have the illusion that the Ministry of Transportation and Communications is on top of all this. Unfortunately, I know the ministry too well. It is not. It has great difficulty putting in place the plans everybody agrees on, such as GO rail. The implementation of that system from Hamilton to Oshawa is behind schedule now. They do not have the financial allocations yet. They are working on that. I am happy that once again I can see people actually working on the building of the track lines. For about a nine-month period nobody was doing anything. Now, when I drive in and stop in the middle of the highway near Ajax, I can look over to my left and see that somebody with a truck is doing something. I have some faith that the project is under way again, but for a long while it was stopped dead in its tracks.

Even on that one, I think it is reasonable to say that all of the municipal governments from Hamilton to Oshawa agree on the GO rail scheme. They agree pretty much on everything but a few details as to exactly where the tracks should run, yet we are having difficulty implementing that one. On the future ones, I am not even sure we have anybody planning for the collisions, and the collisions are clearly coming, between councils, some of which want the transportation lines to go in one direction and some of which want them to go in another. Some want the transportation on the ground in the form of an expanded road system. Some want it underground in the form of a subway system. Not all of these systems are going to be built. I do not even see the decision-making apparatus in place yet. I am growing concerned about it.

Mr. Charlton: Perhaps I could add a couple of comments to Mr. Breaugh's before the response. I see several problems here. When he asked the question about what role the Ministry of Municipal Affairs is playing, Mr. Breaugh referred earlier to one of the problems I see. He and I are both from ridings that have been part of this GO Transit debate. Right now the municipalities and regions are competitors when it comes to their discussions with MTC because of the way MTC operates and the nature of the funding problem.

Mr. Breaugh suggested co-ordination by your ministry. One of the things that needs to happen to start to reduce the competitive nature of the municipalities competing to get the first piece of track, or whatever the case happens to be, is co-ordination of their approach to MTC. What

better ministry to be the co-ordinating advocate on behalf of the municipalities in terms of their transportation planning than the Ministry of Municipal Affairs?

In addition, the minister's earlier comments set out part of the problem when he said that a lot of these transportation systems are planned 10, 15 and 20 years in advance. The time that it takes them to get them in place is the problem and the crunch, as Mr. Breaugh said, is coming much faster than any of us likes to think.

As a brief description of what is happening out there, I was elected 10 years ago this coming June. When I was elected, on the Queen Elizabeth Way from Hamilton to Toronto, the rush hour ran from 7 a.m. to 9 a.m. If you left before seven or if you waited until nine o'clock to leave, you did not have any problems. The rush hour in the morning now runs from 6 a.m. until 10:30 a.m. and sometimes 11 o'clock. The rush hour in the evening used to run from about four o'clock until six o'clock. It now runs from 2:30 or three o'clock right through until seven o'clock.

That is the extent of the growth of the problem in 10 short years. In that same period, the expansion of public transit has been very limited.

You mentioned the one train that has been added in Hamilton, but Hamilton and Hamilton-Wentworth are asking for full GO rail transit service because they see the problems that are evolving. What has been the response of the Ministry of Transportation and Communications? It has been to add the one train, to throw more buses on to the crowded highway I have just described to you and to twin the Burlington Bay Skyway bridge. That probably had to happen anyway, but the bulk of the money went into expanding the bridge.

What is the next step going to be? If you do not start putting public transit in place in a co-ordinated way, you are going to have to twin the Queen Elizabeth Way, but it does not happen fast enough.

Hon. Mr. Grandmaître: I know that this ministry can play a very important role and I am not trying to slough off the responsibility or pass the buck, but the Ministry of Transportation and Communications is responsible for transportation. I recognize the need to work with that ministry. Every municipality of any size, not only major municipalities but also those of a reasonable size, has a transportation problem. This ministry will work more closely, or as closely as possible, with the Ministry of Transportation and Communications and with municipalities in the better planning of these transit systems. That is the only assurance I can give you.

Mr. Breaugh: I want to get a bit more out of you than that. The Ministry of Municipal Affairs is the lead ministry. It has dramatically reformed the Planning Act and has changed the powers of the municipalities to approve and expedite development. We have been successful, if that is the right word, at engineering major problems. We cannot simply walk away from them now and say another ministry is responsible for them. It would be irresponsible if we have made all this change to satisfy in some ways the development industry, which rightly or wrongly wanted to sell houses.

Let us be blunt about it. There are people who are making a potful of money because we changed the Planning Act to make it quicker. In its planning documents, Ontario said it wanted to develop the region around Metro. We have a go-east policy. We will make some moves that will encourage those municipalities and say quite flatly to them: "You have to be responsible for more housing than you might have originally wanted. You have to take more of a population base than you originally wanted. You have to make that base accessible to Metropolitan Toronto for a great deal of industrial growth and development, perhaps a great deal more than what you wanted." It is not good enough simply to say, "Having built all this development around Metro, it is somebody else's problems to provide a transportation system." It cannot be.

If we were to work in the reverse, we would say: "The Ministry of Transportation and Communications builds a transportation network for southern Ontario and it is different from what it might be in other places in the world, but it is designed to move people around the southern part of Ontario." This ministry could then say: "We do not want any development plans approved. We do not want to expedite the housing, the industry and the growth in all those municipalities." The Ministry of Transportation and Communications would be on the hook with a transportation system and nobody to ride it.

Instead, what we have done in Ontario is the other way around. We have provided the development that was supposedly being expedited, in part at least to provide the population base that would utilize a transportation system such as GO Transit.

The population base is there. What is not there is the transit system. It has to happen. I recognize it may be a partial defence to say that another

ministry is more directly responsible for this, but you cannot get away from the point of view that this ministry approved those plans for development. This ministry caused the changes in the Planning Act to occur. This is the ministry that will deal with those municipal governments that are now exercising their responsibility in expressing which of the options they like best. It will be this ministry, I bet, that in the long run will be called in to resolve the arguments about whether it is a road system or a subway system, or where the alignment of that system might go. You are going to be arbitrators of these disputes.

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Hon. Mr. Grandmaître: You will also recognize that you are referring to the amendments to the Planning Act. Those changes are recent; they date back to 1983. I just told you it takes 10 or 15 years to build or plan a transportation system, or to identify a corridor. These municipal official plans that do arrive at the ministry are circulated, and have been for 10 or 15 years, to every ministry possible that is affected, and they were approved 10 or 15 years ago. It is very difficult at present to ask this ministry to revamp these official plans, because–

Mr. Breaugh: Excuse me. I am not asking you to revamp them. In fact, I am in direct agreement with what you have just said. With respect to the official plans for Durham, York, the Mississaugas and all of that, you are absolutely right. These are not secret documents. These have been public documents for a long time, circulated to every one of the ministries. What I am saying is that the problem is that part of the documents has happened. They are in the ground now; the development has occurred. The official plans were circulated to all the ministries. They were based on the fact that there would be a transportation system in place now to accommodate the development that is in place now.

What has occurred is that the development is there but the transportation system is not. The development plans will occur, because the development plans are not in your hands. Those plans have been approved. They are in the hands, by and large, of private developers who will build their houses this spring, this summer and this fall, because they want to sell them. They have no interest in whether or not the province is about to expedite GO Transit. They could not care less. They want to sell houses and most of them will sell houses with little brochures that say there is a transit system that will take one from this house in Newcastle to downtown Toronto. They could not care less whether the transit system is in the back of someone's mind or on the ground and operating.

They were built with that in mind. The transportation network that I am talking about is not new, yet-to-be-conceived problems. It is agreed upon in those official plans. The second phase of that has not been agreed to, and those are the problems where the councils are currently arguing over what the routes will be and what type of transportation mode it will be. That is the problem I am trying to get you to address. You are right, the Ministry of Transportation and Communications has known about this from square one, because it was a participant in this planning process.

Hon. Mr. Grandmaître: What can I say? We all agree that it is a problem. This ministry will continue to be better planners and better thinkers and we hope we can get the Ministry of Transportation and Communications to provide more dollars to provide better transportation. That is about all I can tell you, gentlemen, because we all agree that the way planning is done in the 1980s and the transportation needs do not really jibe. We get the development, and in five, 10 or 15 years we get the transportation services. Then 10 or 15 years after that, they are outdated and we have to start it all over again. We will have to be better planners, not only in this ministry, but in this government. Every ministry will have to be better planners in the future.

Mr. G. M. Farrow: While we are not disagreeing with what the member is saying–

Mr. Partington: It could be better.

Mr. G. M. Farrow: –part of what we are trying to do–and as we know in Oshawa and especially in York and Mississauga, we are getting a lot of industrial development–is we are planning not just for people that live in Oshawa and have to find their way into downtown Toronto. It is a question of how much and who goes where. We cannot, unfortunately, legislate that if you are going to work in a certain place, you have to live in a certain place. We hope we will not have to come to that sort of thing.

It is one thing to say growth is taking place too fast and let's put the brakes on. A lot of this growth may be causing some transportation problems but not necessarily problems that can be solved by GO Transit. We are getting a lot of industrial development. This is providing a lot of income that will ultimately find its way into these transportation arteries and other things.

If we were putting only houses in Hamilton and Oshawa, people would have to drive into Toronto or otherwise; but we are putting a lot of

industry in those areas, and a lot of people are working and living in the area. That is part of the overall planning philosophy. You cannot make a system of large urban communities, such as we are developing in the greater Toronto area, and have everybody being be able to get from any place to any other place equally as easily as he can go next door if he works in his own municipality. That is not easy to plan for. You can plan and make sure you have a balance of industrial, commercial and residential development.

I think we have been doing a pretty good job, if you look at some of these fast-growing places, especially in the Yorks. I do not have too many statistics on the east, but in York and in the west we are getting a good supply of industrial development. We are not building only residential developments. That industrial development is benefiting all of us. There are jobs which we need. It can be said we want to keep the growth going mainly to get the jobs going, but this means houses have to come along with it.

We have to try to balance off between having some control on the growth but not putting on artificial controls that are going to stop industrial development and have no place for these people. People are not being created that fast–the people are there. We are trying to find the jobs for them and another place to live.

Mr. Breaugh: Let me conclude by saying I want to forewarn you about the developments around Metropolitan Toronto, and we are not talking about future developments now, because these are all developments included now in official plans. Subdivision agreements have been struck and the housing boom is here. They were all based on the premise that a transportation network would be built to accommodate this system. We are not talking about something 20 years in the future. We are talking about plans developed in the early 1970s and mid-1970s, approved by those regional governments and handed over to the private sector so that the actual building, whether it is a subdivision, an industrial park or whatever, is now occurring. What is not occurring is the transit systems we were promised at that time.

It is true that out of the ones I have mentioned today only the GO Transit system was locked in, but at that time a wide variety of provincial transportation schemes, interregional in nature, running right across the southern tier of the province, was proposed. Although the specifics of those were never locked down, nailed down and agreed to, when we did those official plans for all those regions, we were aware that a transportation system was being planned by Ontario. The one that had been agreed upon, I guess, was GO Transit, from Hamilton right through to Bowmanville. A highway system was being planned and several other linkages were being planned as well. Some subway systems and other transportation modes were being discussed at that time.

That is what has failed. The alarm bell that I want to ring is that we have succeeded at expediting the development–residential, industrial, all kinds of development–and we have approved those plans, so we cannot call those back. That is going into place. The transportation system to accommodate that is not going into place, and we had better get to work on that, because that is a major problem right now. If you think the roads are clogged now, wait until you see what they look like 10 years from now.

I recall that when we began this process I went on one occasion with a planning committee to a place called Erin Mills just northwest of Toronto. It was one of those planned communities where people would all work, play and live in the same neighbourhood. I think Eli Comay, planning genius of the time, had devised this system. The first thing we noticed was that there were industrial sites, but there were also some pretty classy houses next door. I was wondering how these industrial workers could afford these houses.

The explanation was fairly simple; they could not. The industrial workers all came from downtown Toronto and drove out to Erin Mills to work in those plants, and the executives who lived in Erin Mills drove to downtown Toronto to go to work. The planned-community concept did not quite come off. There is a flaw in that somewhere. I do not quite understand it, but I know many of my neighbours live in Oshawa and work in Toronto, and the transportation system that we had accepted as part of those officials plans is becoming more critical for a lot of reasons.

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Mr. Haggerty: You should bring back the Ministry of Revenue offices.

Mr. Breaugh: That is a good idea.

Mr. Chairman: Thank you. We have a number of questions. Mr. Polsinelli, who left, had indicated he wanted to get on the list and raise a question. I will go back to him at the first opportunity, if he returns. Is it expected that he will be back? Do you know, Mr. Cooke?

Mr. D. R. Cooke: I am sure he has been called away for something.

Mr. Chairman: I know it would be important business. The important question is whether he will be back.

Mr. D. R. Cooke: He will be back as soon as he can, Mr. Chairman. He is fine. He is determined to ask that question.

Mr. Chairman: I just wanted you to know that I was not ignoring his position on the list. I will now have to move on to another member in his absence. Mr. Partington, I believe you have a question you wish to raise.

Mr. Partington: Yes. It reverts to an issue you raised, which is the high water, particularly on the Great Lakes, and the damage to private property, beaches, roads, public parks and works, and marinas throughout the Great Lakes basin caused by severe storms. The shoreline property assistance program provides loans to individual property owners for repair or inspection of damaged property. The ministry's allocation is up from $4 million last year to $4.5 million for 1987. Although there has been a 600 per cent increase since 1985, the problem occurs because there has been a dramatic increase in high water and damage caused by it over the past couple of years, so the increase in allocation should be dramatic.

Do you think $4.5 million is an adequate amount of money to allocate to this program to meet the projected needs of those whose properties have suffered damage as a result of high water in the storm? Is that a reasonable amount of money?

Hon. Mr. Grandmaître: With our past experience, we think it is a reasonable sum of money. You will recall that last year I had to ask for an additional $1.5 million. We think it is reasonable, but I cannot control these levels of water. We have expanded on the program. We are now allocating people to relocate. I think this is a great improvement in the past couple of years, but it is not the 11th commandment and it is not the end of the world.

We hope the waters will recede and we will not have to spend more money. However, it is a very hypothetical question. If the federal government is not interested—and in the past it has shown that it is not interested in sharing the cost of the damages of these high waters—we will continue to negotiate or talk with the federal government, because it has a responsibility. This government cannot fully control the level of waters. We need the assistance of the federal government.

The federal government has told us in the past it is simply not interested. Having being told no once or twice does not discourage us from going a third time. We will continue to demand the support of the federal government for this very important program.

Mr. Partington: The Shoreline Property Assistance Act deals basically with assistance for private property owners. What steps will you be taking to assist the financial needs of municipalities that suffered damage? In particular, I know the town of Wainfleet sustained extensive damage in the summer of 1985. What plans do you have for the municipalities?

Hon. Mr. Grandmaître: I hate to blow my horn, but I think we responded very well last year. As I mentioned a little while ago, we added $1.5 million and the additional $1.5 million was enough.

Mr. Partington: Was that for shoreline protection or to assist municipalities directly?

Hon. Mr. Grandmaître: For preventive work and for road repairs, etc. We do provide loans or even grants to municipalities to repair these routes.

We hope the dollars I am talking about are enough. If not, I will have to go back before cabinet and expose it to these serious problems.

Mr. Fleming: If I could add a little here with respect to the protection of shoreline property, $4.5 million is our best guess as to the amount of requests we will get in the year. In the past, municipalities whose facilities, whether it be roads or other facilities, have been washed out by floods have received special assistance for matters beyond their control.

The question of prevention is a matter that was considered by a committee quite recently, which reported that municipalities and the province together could not hope to have sufficient funds to protect the whole shoreline of Ontario. There is a very major problem there. What has happened in the short term is that conservation authorities are looking now at the shoreline as well as river valleys. In fact, there is a note in today's paper about assistance that Ministry of Natural Resources has given for protection in Metro, but that is a conservation-authority program.

Mr. Partington: For damage to municipal property and works, is it the position of the ministry that the municipalities will be picking up most of the cost of that damage?

Mr. Fleming: If there is a flood and the road is wiped out, we will provide special assistance as

we did in Sarnia township some years ago, as the minister mentioned. We have done that.

For preventive work, apart from the conservation authorities' program, which is not really directly related, there is no program for preventive work, and that has been the subject of a recent committee.

Mr. Partington: So municipalities would pay that, but for damage to property, such as a road being washed out, would the province provide partial or full assistance?

Mr. Fleming: Partial assistance.

Mr. Partington: What percentage of actual costs?

Mr. Fleming: The Ministry of Transportation and Communications pays its normal grant, which is 85 per cent. We will then look at it and see whether it is an undue burden, if taxes are going to increase too much, and will provide further than that 85 per cent.

We look at each individual case. This is what we were showing last night on how we assessed a particular request in terms of a municipality's financial position.

Mr. Chairman: Mr. Partington, may I allow Mr. Haggerty to get in his supplementary? Then I want to ask a couple of supplementaries on this very important subject and then we will get back to your next question.

Mr. Haggerty: The Ministry of Transportation and Communications has a program that assists municipalities particularly where roadways have been washed out by the heavy waters or the high seas on Lake Erie. I think the city of Port Colborne received $340,000 and the township of Wainfleet around $300,000. They are putting in steel cribbing along the shore to protect the road around Gravelly Bay. Even in the past, the previous government, back in 1973 in the high storms, built some roads too for the local municipalities and gave them some funding.

The funding is there, but the municipality has to request it.

Mr. Chairman: On the same question, the $4.5 million is a relatively ambitious amount which, given the information that is at hand at the moment, will probably serve the needs of the municipalities through the program to assist private property owners.

I have consistently and on a regular basis, as the minister knows, both in the House and in questions that were raised yesterday, tried to pin down a program that would be applicable to municipalities suffering specifically from the high water that has occurred within the past 12 to 24 months.

I really am not interested in what the previous government did and in whether the water was higher or lower or what the case was 30 or 36 months ago. Since the time this issue was raised by me personally, the waters have been at an all-time high in my area. I am speaking specifically of Lake Huron and the St. Clair River.

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I want to read to the minister from the year-end review in the Sarnia Observer, where on November 12, the Sarnia township reeve Ray Whitall is quoted as saying, "Funding for erosion repair referred to by MA minister Bernard Grandmaître in the Legislature recently appears to be nothing new...as it referred to grants the township had already deemed unacceptable." You can look at that article if you like. I raise that with you because the very question raised by my colleagues is the one I am trying to get to the bottom of.

Obviously, $4.5 million will not go very far in terms of assistance to municipalities that are attempting to protect roads, valuable municipal land and so forth. One municipality in this large province of ours could easily spend that amount of money and not complete a major project within its own jurisdiction.

I am not expecting that the Ontario government will be in a position to put in a comprehensive program to protect all shorelines. However, I do expect a new program that is understandable –I emphasize that word–where there is a lead ministry which in fact delivers that program. I go back to what my colleagues were saying earlier about someone co-ordinating the ministry approach to a transportation network. This is exactly the same thing we need with respect to shoreline protection.

In some instances we have the Ministry of Transportation and Communications involved if a road is under duress as a result of high water. It could be the Ministry of Municipal Affairs or the Ministry of Natural Resources. It could be a conservation authority or a parkway commission that comes under the Ministry of Natural Resources. There is a whole list of groups and ministries out there, all of which, including the various levels of government, are passing the buck, one to the other.

That preamble was rather lengthy, and I apologize for that, other than to say that the municipalities are looking for some program to which they can apply to give them a direct degree

of assistance from your ministry to assist with shoreline protection in specific cases. I do not expect it to be a multimillion-dollar budget, because I realize that those kinds of dollars are not around, but at least a start could be made, in some instances, to assist some of those municipalities. Is your ministry thinking of anything along those lines?

Hon. Mr. Grandmaître: You will recall that two or three months ago, the Minister of Natural Resources had to ask the member for Kent-Elgin (Mr. McGuigan), if I am not mistaken, to chair a committee on the long-term program on shoreline assistance. It is a very good report. I am sure the Minister of Natural Resources intends to improve this program as the need arises.

I must remind you that we do have a program at present–if I can call it a program–for municipalities that do find themselves under duress or that increase taxes because of road repairs caused by erosion or flooding and so on. They can apply to my ministry. We have assisted municipalities in the past and we will continue to assist municipalities that find themselves in a financial problem because of erosion or flooding. We will continue to do that.

Mind you, I am not saying it cannot be improved, but you must agree with me that the Ministry of Municipal Affairs is now looking after municipal affairs for the first time in a number of years. We split up the Ministry of Municipal Affairs from the Ministry of Housing, and now we can concentrate on municipal affairs and on better programs, and surely our shoreline program is one program we are looking at seriously.

Mr. Chairman: Can you give me some indication of what number of dollars is in this program that you anticipate will respond to the requests of the municipalities? As a supplementary to that, can you tell me specifically how a municipality would qualify to get whatever number of dollars you are about to identify in that budget?

Mr. Fleming: Let me come back on this. We are talking essentially of different issues. I think the chairman is talking about an ongoing program that will enable municipalities to obtain funds to relocate roads, create diking and that sort of thing in order to prevent future damage by flooding. At this time an interministerial committee is looking at these kinds of long-term solutions. The problem with these long-term solutions is that they are very expensive and they cannot be done in isolation. In other words, there is a long stretch of shoreline that has need of protection, and it is not feasible to protect just a small part of that shoreline without protecting a long stretch of it; otherwise, it is not effective. To reroute it is also very expensive.

What the Ministry of Municipal Affairs does, and has had a program to do for some time, not only for flooding but also for other natural disasters, is to assist in the replacement of municipal facilities. That is the one I referred to under the Ontario Unconditional Grants Act for emergencies beyond the control of the municipality, where facilities are washed out or a hurricane causes damage to municipal buildings and so on.

However, that is an emergency program. What you are talking about, Mr. Chairman, is an ongoing program to prevent flooding and to reroute municipal facilities that are subject to flooding. At the moment, an interministerial committee is looking at that. What it will recommend and what the government ultimately may approve, I cannot tell you.

Mr. Chairman: The municipalities are quite frustrated with that kind of response, I have to tell you, because it really does not tell them anything. I was listening very carefully to what you said, and I am still not sure how a municipality applies to get any money.

If a municipality has already suffered direct damage, if part of the road is now sitting at the bottom of Lake Huron somewhere, does it qualify under the municipal program you have at the present time? I am not talking about a preventive program. The damage has already been done; the road is half carved up and has already dropped into Lake Huron. The municipality has suffered the damage. It is thinking of rerouting the road, giving up the property, doing a number of things that may be less expensive than putting up shoreline protection. But when it has already gone that far and the municipality is suffering from this tremendous damage from high water, what can you do to help it respond to the problem?

Mr. Fleming: In that particular case, it either contacts the local office of the ministry or writes to the minister. We will have our local field office visit the municipality to determine what the damage is, and then determine what it will cost to repair it. Then we go through the process that was illustrated last night on the computer, which takes into account the damage, the level of taxes in the municipality, the impact of repairing that damage and so on, and a determination is made of whether the repair of that damage will

place an undue burden on the taxpayers. If that is so, the minister will make a special grant.

1700

Hon. Mr. Grandmaître: That is under the unconditional grants.

Mr. Fleming: Normally we would not even look at a situation in which the increase in taxes was four per cent or less. However, the increase in taxes could be more than four per cent but the level of taxes in the municipality could already be sufficiently low that an undue burden would not be placed on the taxpayers. Thus, as a low, we take four per cent, but it is not an automatic grant at more than four per cent. We look at that merely as a guideline, and if it is less than four per cent, we will not consider it.

Mr. Chairman: Could you get back to the question I raised earlier about how much money is in this program? Where do we find it in the budget we are now dealing with?

Mr. Fleming: Under unconditional grants.

Hon. Mr. Grandmaître: Under unconditional grants.

Mr. Chairman: You mean it is buried in that whole big figure?

Hon. Mr. Grandmaître: No; there is a figure for unconditional grants.

Mr. Fleming: In the 1986-87 estimates there is $4,721,000 in the special, but that is not simply for flooding. It may be for other unforeseen circumstances, such as a manufacturing plant closing, where a municipality needs special assistance. It is for a whole variety of circumstances that would unduly increase the taxes in a municipality.

Mr. Breaugh: Fire, pestilence, change of government–that kind of thing?

Mr. Chairman: Just to give me some indication of where that number moves from year to year, is that a fairly constant figure or does it move rather substantially in terms of the high-low number?

Mr. Fleming: My recollection is that it varies around $4 million to $6 million from one year to another, depending on the situation at any given time.

Mr. Chairman: I would guess, just from the way you have described how one would qualify for the program, that very little of it has gone for shoreline protection.

Mr. Fleming: None of it has gone for shoreline protection. What it goes for is replacement of utilities, roads and so on that have been washed out.

At the moment, in the current floods there is somewhere around $800,000 in claims that municipalities have submitted to us that are in the process of investigation, but it is not shoreline protection.

Hon. Mr. Grandmaître: It is in two different programs.

Mr. Chairman: I would like to impress on the ministry, and then I will get back to Mr. Partington, the very special circumstances we are faced with at this time. I cannot predict the future, but we may be sitting around a table some time five years from now when high water may not be an issue. Over the course of the past couple of years it has been a major issue to those municipalities that are in those very specific locations, either because of the elevations of the land mass in their jurisdiction or because of the wind directions, the high water factors and all of those things that have to be considered for the damage they are experiencing.

The problem is here now, and I really think there should be some relatively quick movement on the part of the interministerial task force to find a program that is at least partially responsive to the very serious need that is out there. If you talk to the 125 members–and I am talking about inland waterways as well; it is not just the Great Lakes system–there are many members in the north and in various parts of Ontario who have serious flooding problems that they have never experienced in their history before, because of the unique set of circumstances–it could be environmental, it could be man-made, it could be any number of things–that have caused this to happen, but it is here with us.

I simply say that a new program, a new way of responding, one hopes in concert with some assistance from the federal government if it will come into play on the issue, should be considered.

Mr. Partington, you wanted to move to a new topic.

Mr. Partington: Yes. After the disaster of the tornado struck the Barrie area, a number of concerns were raised about the adequacy of the disaster relief program of the province. I believe you indicated at the time that the guidelines would be reviewed and updated. Can you advise us whether that review has been completed and what it states?

Hon. Mr. Grandmaître: That program was 15 or 17 years old, and we decided it should be reviewed and also brought up to date to accommodate the new demands and to change the restrictions of the program.

I agree with you that in every disaster we experience things we have never thought of before. We have initiated this review, and I will table the review report and the revised guidelines in the Legislature and make a statement outlining the major revisions to the program.

This review was done by Woods Gordon. I will be very honest with you: We thought it was not up to par, so we have asked them to take a second look at it and we are still trying to improve the program.

Mr. Breaugh: When might you table that review?

Hon. Mr. Grandmaître: January 15–

Mr. Breaugh: Careful; you are close to giving an answer here.

Hon. Mr. Grandmaître: On January 15 it is scheduled to go to the cabinet committee on emergency planning.

Mr. Breaugh: What happens to things that go to CCEP? I do not want to ask what it is; I just want to know what happens.

Mr. Rowe: Things disappear. You never see them again.

Hon. Mr. Grandmaître: Once it goes to CCEP, there is a good chance that–

Mr. Breaugh: It will never see the light of day again?

Hon. Mr. Grandmaître: No; you are going to see the light very shortly afterward, within weeks. Once it has gone through CCEP, then it goes to cabinet and that is it; it is approved.

Mr. Breaugh: Not to be pigheaded, but is there any chance you might answer the question of when we might see this thing tabled?

Hon. Mr. Grandmaître: Are you asking me to take a wild guess?

Mr. Breaugh: Make a tame guess; I do not care. This year?

Hon. Mr. Grandmaître: Yes, definitely.

Mr. Breaugh: Next year? The year of our Lord 1805?

Hon. Mr. Grandmaître: Early spring.

Mr. Breaugh: Early spring. I hate those early spring answers.

Mr. Rowe: As a supplementary on that question, it is about 20 months since the disaster. You are saying to us that the Woods Gordon people reported back with some sort of report, with which you obviously were not happy. It is going back to them again, and then through whatever channels to cabinet or whatever it may be. Therefore, if another disaster hit Ontario today, God forbid, we would have to operate under the old guidelines that came into being some time after hurricane Hazel, the famous hurricane that came through in the 1950s.

Hon. Mr. Grandmaître: With our last experience, which I want to forget? No; and you should know, because you have written me a number of letters, 10 or 20 letters about some of your constituents who did not qualify or could not qualify under this 15-year-old program, and I have accommodated most of your demands. No, if the need is there, the ministry is open. As I said before, we are trying to accommodate more people with the new program.

No, I am not saying that we are going to use the 15-year-old or the outdated program to accommodate the present needs. I think we have shown our willingness to accommodate your needs.

1710

Mr. Rowe: I notice the $300,000 line for disaster relief assistance to victims in the estimates. Do you have any indication approximately how many claims that would represent?

Hon. Mr. Grandmaître: How many claims?

Mr. Rowe: Individual claims for the $300,000.

Mrs. McLaren: The $300,000 was actually put in as a holding amount to keep that line item open. If the claims are submitted, the ministry then goes back and requests additional funds to finance the claims. That is not really representative of the number of claims that would have been paid under that account last year.

Mr. Rowe: Nor would it be representative of the total amount of money paid out.

Mrs. McLaren: No.

Mr. Rowe: The number in which I am interested is the number of dollars your ministry expended on the claims. I might add that you were very co-operative in settling or at least attempting to settle, in an expedient way, any claims that I sent you. I thank you for that and my constituents thank you. I am interested in the total amount of money the government spent with these claims versus the total amount of money raised by private individuals who donated most generously to this campaign. I am interested and I am sure my colleagues would be interested in the amount of money given by the private sector, the public sector and by all those who donated most generously across Ontario to this campaign and to the fund. Then we will take a look at that and say, "How much did the province kick in?" It might help us in future disasters.

As a second part of my question, I wonder whether you or your ministry has given consideration to a holding fund that would not necessarily be anything more than this $300,000 on paper, which would kick in immediately with a specified amount should, God forbid, there be another disaster of the nature and size of what went through central Ontario. In other words, we would not have to go through short delays for people who suffer from the horrendous results of disasters. Even short delays by governments seem to be weeks or years; it stretches on. I am interested in knowing whether you have any plans in place that would automatically implement it for the tornado that went through Barrie. You would be able to say: "Yes, we have a line in the budget. We have $1 million or $2 million budgeted as a starting point for a disaster of this size.

Hon. Mr. Grandmaître: As indicated by Mrs. McLaren, the $300,000 is the starting line, but if $600,000 is needed, depending on the damages, then the number will naturally increase. I will give you an example. The last disaster at Winisk cost us $450,000. The $300,000 is strictly a budget line; it is a start. Even if we add $1 million or $2 million to that line–the new guidelines will make the dollars that you were referring to readily available within 24 or 48 hours. These new guidelines will answer your concern.

Mr. Crowley: Perhaps I can add that under the central Ontario disaster, Barrie plus its public utilities commission received more than $1 million of loans in that year, excluding all the other claims.

Hon. Mr. Grandmaître: With regard to the previous question?

Mr. Fleming: We are trying to get that information. We will get back to you.

Mr. Rowe: Thank you.

Mr. Chairman: Are there any further questions?

Mr. Breaugh: I have just one, to follow up on this. I was interested in the report on shoreline assistance programs that was tabled recently. I would like an update on what is happening with that report. Where is it in the process now? I believe the report was tabled by the member for Kent-Elgin.

Hon. Mr. Grandmaître: It is now in the hands of the Ministry of Natural Resources because MNR is the responsible ministry. This was a joint–

Mr. Fleming: Yes, a joint interministerial task force.

Hon. Mr. Grandmaître: It is now in the hands of MNR.

Mr. Breaugh: If I could comment briefly, other than saying that this is a very fine report, which it is, I have not seen much of a response from your ministry to it.

One of the things that struck me when I read it is that it suggested that as delivery agents, conservation authorities would be the front-line providers of the service. I find that a little confusing. In a theoretical model, perhaps, but in a practical model, to take my own as an example, which has about 100 miles of shoreline along Lake Ontario, to suggest that a conservation authority could take on reconstruction of that shoreline and a project of that size across a half-dozen major municipalities in and out of my region, including Metropolitan Toronto, is a task certainly on a scale that has not been done before.

I am not convinced the conservation authority would be the first provider of the service in a most effective way and I am not sure our municipalities would be terribly happy that the conservation authority, not an elected body, would be the first-line provider of the service. I see some practical problems there. I recognize that the report is useful in pointing out that the scale of work that might be provided here is going to be rather immense. It involves at least three or four levels of government and probably one or two countries. We are talking about very expensive, large-scale problems and large-scale solutions. To suggest that the conservation authorities would be the best providers of that service is a little controversial.

I am not sure that municipalities are terribly happy with the existing programs and I am not sure that they have had a great deal of input into that report, although I noted that some municipal governments did appear in front of the committee. I would be interested in a little update on the status of the report, on your ministry's official response to the recommendations of that report and on where we go from here.

Hon. Mr. Grandmaître: This report is being circulated now, and these are only recommendations. I want the member to understand that. It is not the final report, and I hope some of your concerns will be resolved.

Going back to your concern about the conservation-authority role in this matter, the conservation people can be of great use, but these recommendations can be improved or amended. As I say, they are only recommendations. The

report is being circulated, and I hope some of your concerns will be resolved. I can assure you my ministry will have some input into these recommendations.

Mr. Breaugh: To be a little more specific about it, in my area I would have three conservation authorities in operation on the shoreline. They would have to work in concert among themselves, which is a bit of a challenge; with a dozen or so local municipalities, another little bit of a challenge; with a couple of regional governments, also a bit of a challenge, and with Ontario, the federal government and the United States. That is quite a job for my conservation authority which, up until this time, has had its hands full seeing that the creeks do not run over, operating conservation lands and things of that nature. There is that kind of a problem.

In addition to that, because it is a shoreline, if Metropolitan Toronto and Region Conservation Authority decided to proceed with some work, my local conservation authority has to proceed with work in kind, whether it likes to or not, because if the shoreline is changed substantially in one configuration along the lakeshore, the next one down the line has to change. I am not quite sure that we have thought this through quite as carefully as we might.

1720

Hon. Mr. Grandmaître: This is why the report is being circulated. I am sure you are not the only one to recognize some of the lacunae in the report. You bring out some very good points. I have heard them before and I am sure they will be acted upon.

Mr. Breaugh: Is it being circulated by the same folks who circulated the transportation plans a few years ago?

Hon. Mr. Grandmaître: I am not going to touch that.

Mr. Chairman: Members of the committee, I remind you that we have until six o'clock to complete these estimates, so we will have to move along. I am trying to get as many questions on as possible. If we exhaust all the questions, then I will move directly to the budget numbers in the estimates and we can cover those. Mr. Partington has indicated he has another question he wants to raise.

Mr. Breaugh: For my part, I just have one other matter I would like to spend a little time on, and that is the lot levy situation and where it is going. The minister indicated he had some financial people with him who might give us–

Mr. Chairman: I wonder if the member for Oshawa intends to pursue the question he raised in his opening address about municipal bonusing. If you intend to pursue that any further, I had a couple of supplementary questions on that. That was one of the–

Mr. Breaugh: Since the chair is begging me to do that, I will be happy to.

Mr. Chairman: I am not begging. I simply was absolutely–

Hon. Mr. Grandmaître: I like the way you do that.

Mr. Chairman: I was so totally taken with the arguments you had put forward at that point–

Mr. Breaugh: You are so good at the mendicant position, I will raise it.

Mr. Chairman: Can we go to Mr. Partington and then back to Mr. Breaugh?

Mr. Partington: I have a question dealing with the Niagara Escarpment Commission and the area of control. It may be that a recent bulletin cleared this up.

I talked to Mr. Gary Cooke, the land division secretary in regional Niagara who raised this issue. Section 5.5 of Ontario regulation 406/83 says: "Consent-granting bodies like land division committees, committees of adjustments, committees dealing with zoning amendments must provide notices of hearings pertaining to lands adjoining and within the entire Niagara Escarpment planning area."

This means that notice to the Niagara Escarpment Commission must be given in situations where the commission has no legal control or interest over the lands in question. Has the ministry amended the regulations to establish a more reasonable circulation area, or will it do so?

Hon. Mr. Grandmaître: We are working on it.

Mr. Partington: When will the work be completed?

Hon. Mr. Grandmaître: Soon. This spring. In the fullness of time.

Mr. Partington: I would like to provide a more accurate estimate to my constituents.

Mr. Chairman: First full moon.

Mr. Partington: Is there any reasonable date, such as the end of April or mid-March?

Hon. Mr. Grandmaître: Where is it at now, Mr. Farrow?

Mr. G. M. Farrow: Apparently, it has gone through now. That is how soon it is. It is soon in the past.

Mr. Partington: That is right. There may have been a bulletin that came out within the past couple of weeks.

Mr. Rowe: Is there a full moon tomorrow night?

Mr. Breaugh: Apparently, there is one today.

Mr. G. M. Farrow: We will be back to you tomorrow on this.

Mr. Partington: Fine. Thank you.

Hon. Mr. Grandmaître: That is very fast.

Mr. Breaugh: We have not heard the quality of the answer yet. Do not get too carried away.

Mr. Partington: I have one further, related, minor question. The amendment to the Planning Act indicated in regard to land division consents, once a consent always a consent, or vendors' and purchasers' decisions that say that is retroactive; but apparently there was a statement from the ministry some time ago to indicate that this was not to be the case. What is the legal position with respect to land division consents? Is it retroactive? Does it cover consents whenever given in the past?

Hon. Mr. Grandmaître: Did you say I addressed that?

Mr. Partington: It may have been a minister prior to you who made that statement.

Mr. G. M. Farrow: I would like a clarification on that question.

Mr. Partington: If a consent to sever property is given and that parcel is merged with the adjoining property, I think the Planning Act now says that once a consent is given, if it is given once it is deemed to be given for ever, even though it may be merged in the same owner. The question that has been raised from time to time is whether it applies to consents given before the amendments to the Planning Act.

Mr. G. M. Farrow: The advice we have is that this is not clear. There has been legal opinion both ways on this. We have an ongoing review of the 1983 Planning Act and one of the things we are looking into is getting this clarified.

Mr. Partington: So it is under review.

Mr. G. M. Farrow: Yes. We know of five cases that have been decided and it is three to two in favour of retroactivity.

Mr. Partington: Do you think we would help it along by amending the legislation?

Mr. G. M. Farrow: I mentioned that we have our review. We are looking at a number of legislative amendments under the Planning Act to help clarify some points. Fortunately, there has not been a lot of problems raised about the new act, but there have been a few. We have had to make a couple of amendments in the past couple of years and we are looking at a couple of others right now.

Mr. Partington: Is that review of long duration?

Mr. G. M. Farrow: It has been going on. It has been continuing since the Planning Act has been in. This one has been brought to our attention relatively recently.

Mr. Chairman: If you are satisfied with that, Mr. Partington, we will move on to Mr. Breaugh who is quite anxiously awaiting the opportunity to pursue a couple of questions of pressing importance.

Mr. Breaugh: Do you want me to do the bonusing one first?

Mr. Chairman: Why do we not do the bonusing one? That would be a good one to do.

Mr. Breaugh: I raised yesterday, and I raise again today, because it is such a popular issue, the matter of how municipalities deal with industrial development. I would like to expand it a little to include the expectations and the roles of industrial development departments and how you keep an eye on that. For example, we have recently taken a look at how in legislative terms you regulate the use of incentives, bonusing, whatever you want to call it; some sweeteners to industrial development at the municipal level.

Hon. Mr. Grandmaître: Is that Bill 79?

Mr. Breaugh: I forget the number–yes, it is Bill 79.

We are aware that there are continuing uses as to what a municipality can do to attract industry to its locale. For me, the toughest problems are around servicing agreements where a municipality will enter into what is akin to a site plan agreement with a developer to attract an industry to a town. For the most part, this means that the municipal government agrees to provide sewer and water services, to build certain roads, perhaps to realign existing roads, all of which can amount to a substantial number of taxpayers' dollars in the long run.

We have always struggled with this in municipal government in Ontario. We have taken a couple of swipes at attempting to codify, regulate or legislate what a municipality can or cannot do in this regard, but it remains somewhat contentious. To set out the framework, we are content if municipalities remain as sales advocates for their regions or local municipalities, if they are content to put out brochures advertising

how wonderful it is in beautiful downtown Oshawa, how much serviced land is available, what a good transportation system and recreational facility there is and all that.

When they go past that point and offer other incentives, we are into a bit of a grey area. I would like to hear what the minister has to say about what you are doing to monitor this. In the first instance, I guess we have to admit that as quickly as we draw up legislation here, very fruitful minds are at work out there figuring out a way to get around the legislation. How do you track current developments? How do you monitor that? From time to time, in Peterborough, Hamilton and around Ontario, councils get themselves in hot water when people question the work of economic development departments and local councils and whether they acted appropriately. Let us start with that.

1730

Hon. Mr. Grandmaître: The member will recall this is why Bill 79 was introduced by the the Ministry of Industry, Trade and Technology, if I am not mistaken.

Mr. R. M. Farrow: It was an amendment to the Municipal Act.

Hon. Mr. Grandmaître: It was an amendment to the Municipal Act, but if I am not mistaken, MITT followed up with some of its own regulations.

Interjection: It was in conjunction with a program they undertook.

Hon. Mr. Grandmaître: Bill 79 was an amendment to the Municipal Act to clarify this, because the Municipal Act was written too loosely. Some municipalities read it one away and others read it another way. We wanted to clarify the Municipal Act and that is why Bill 79 was introduced. Perhaps Ron Farrow can tell us more about Bill 79. It is mostly that municipalities now are permitted to provide some limited services to attract industry to their municipalities. I agree with you that there must be a limit to these services. Roads involve sewers and so on and so forth.

Mr. R. M. Farrow: Bill 79 attempted to do two things. There was confusion about what bonusing meant. With this amendment, the government reaffirmed its position on no bonusing. It did it by actually specifying some of the situations in which bonusing was being applied.

I do not know whether I need to read this to you. I am sure you are familiar with the bill. There is a bit of irony in this bill. On the one hand, it reaffirms that municipalities should not engage in bonusing; i.e., they should not be in competition with other municipalities by raiding their treasuries to bring industry to their towns.

It is generally considered that one of the last things industry considers is incentives from the municipal government. One example was the Hershey chocolate company which went to Smiths Falls. It had already decided that was where it wanted to go. When Smiths Falls offered incentives, it did not turn them down, but the decision had already been made.

On the one hand, it tries to nail down what bonusing is. On the other hand, because there is such a strong interest in developing entrepreneurial small-business activities–this is happening particularly in the United States–the government thought, "We will give some authority to municipalities to encourage business within their own communities." It eased off on the rules against bonusing for small businesses that had not been incorporated before. The experts say that what the guy in the basement with an idea needs most is some management assistance, so one of the things this bill provides for is that municipalities can provide management assistance, not only to new entrepreneurs but also to small business in the community generally.

It also allows them to provide space in small-business centres at less than market value. That is strictly a no-no under bonusing, but in the context of a small-business incubator, they can give a break on rental leases and so on for a period of three years.

Basically, those are the two aspects of Bill 79.

I come back to your other question, which is a tricky one, on how we track it. As you say, you get the legislation in place and as quickly as you get it in place–our general position is that municipalities should seek the advice of their solicitors. It is difficult for us to be in the position of being legal advisers.

Mr. Fleming: Perhaps I can follow up on that. Our field officers counsel municipalities about this business of bonusing, about selling land at below market value, about not levying charges and so on. On the other hand, the ministry cannot and could not be in the position of ensuring that every muncipality in Ontario complies with all the laws relating to municipalities. We do not attempt to make sure that every municipality complies with that particular law or indeed any other.

When something such as this comes to our attention in the normal course of business, we counsel that municipality. We take the view that the municipal auditor has a responsibility to look

at the transactions of the municipality and to determine whether the provisions of Bill 79 or any other authority have been transgressed and to bring this to the attention of the municipality and of the public in his audit report.

Mr. Breaugh: Basically, you wait until the scandal occurs and then you send out a firefighting squad.

Mr. Fleming: Not necessarily.

Mr. Breaugh: You do not send out a firefighting squad.

Mr. R. M. Farrow: We send out a fire prevention squad. We have field offices all over Ontario, including one in your municipality. We hope they will pick up whether a municipality is likely to do this sort of thing and suggest to it that it is not the greatest idea in the world.

Mr. Breaugh: This whole field of corporate socialism is new to me so I am going to yield to an expert on the field. Mr. Chairman, why do you not put your questions now?

Mr. Chairman: I am not putting myself forward as an expert on corporate socialism. Having just heard from one who is an expert on a certain form of socialism, I will move to the part of the subject that I am concerned about.

Irrespective of how a municipality may be found out to be circumventing the law as we now understand it, and the guidelines that it is operating under, what happens to a municipality that, through a form of quasi-bonusing or whatever, gives benefits in a direct sense that are deemed to be beyond the intent of the bill that was introduced? What do you do to it?

Obviously, you have not put anybody in jail yet. I do not know of any municipality that has ever been fined. Yet I know of all kinds of circumstances where municipalities have taken raw land, serviced the land, put in street lighting, sewers, water, curbs, gutters, the whole works, and ended up selling the land for less than the raw land cost per acre in the first instance. If that is not bonusing, I do not know what is.

Another municipality comes along and its per acre cost includes all the sophisticated services and it wonders why it has to get perhaps $40,000 or $50,000 an acre and another municipality can sell for $10,000 or $12,000 or $15,000 an acre. The answer is quite obvious: Somebody is not crunching the numbers properly. What happens in this case?

Hon. Mr. Grandmaître: I never experienced this in my former municipality. We always did things–

Interjection: Legitimately.

Hon. Mr. Grandmaître: Legitimately. I will ask Milt or Ron. What do you do in a case such as that? What do you do if a municipality is caught?

Mr. R. M. Farrow: It is a complicated problem. If you turn it over to Ontario to monitor and watchdog every activity of the municipality, we will have a bureaucracy like you would not believe.

Mr. Breaugh: We already have that.

Mr. Barlow: That aside.

Mr. R. M. Farrow: You would need a bigger one and you might not get it. It takes a vigilant press. It takes interested residents.

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Mr. Chairman: May I interrupt for a moment? May I say with respect that the method of policing is already built into the system. If the municipalities know someone is not playing by the ground rules that have been established, they will report to you that someone is bonusing and playing games. Usually there are two, three or more municipalities involved in the competition for an industry; they all put their best foot forward, which includes the price of the land and what local amenities they might have and so forth, and provide a total package.

When they start to look at what the total package involves, in this form of corporate socialism that was referred to by my good friend and colleague the member for Oshawa (Mr. Breaugh), they then look at things such as the price of land as part of that. When the cost of servicing alone is a certain figure that would be relatively constant for virtually every municipality–the price of land may vary quite widely, but the cost of putting in a sewer is about the same, assuming there is a treatment plant and so forth; those costs can be fixed relatively accurately–they could report back to you that someone is not playing by the ground rules.

What concerns me is that I had a situation in my own area where some of our people said, "If everybody else is going to get involved in this whole concept of bonusing, then we are going to have to get involved in it as well." That simply escalates the problem and does the very thing that the bill introduced by either you or the Minister of Industry, Trade and Technology (Mr. O'Neil) was to prevent happening.

I am saying to you that you are opening up a problem that is very significant and very substantial. Many municipalities are simply going to ignore you if you do not police it in some fashion, and we are going to have a situation

where the competition is going to be very intense throughout the province.

Mr. Fleming: If I could respond to the particular question, I noticed the comment made by a municipality in your riding. They quoted another municipality in Waterloo as having bonused industry. We happen to know a lot about the circumstances of that one, and I do not think bonusing took place in that case although your municipal people were quoted in the paper as saying that this was bonusing.

Mr. Chairman: That could well be, but beauty is in the eyes of the beholder. If they think bonusing occurred and they are going to get into the act in order to be competitive, then you have a problem. They are going to enter into competition in a way that the member for Oshawa has already identified as very dangerous territory. The end result is that the local taxpayer ends up paying a lot more money, and that is really what the concern is all about.

My question to you is, what do you do when you catch a municipality that has its fingers in the cookie jar?

Mr. Fleming: The last time this happened–it is a number of years ago; I am going from memory now, but I think it was Trenton–we required the particular industry to reimburse the bonus it had been granted by the municipality.

Hon. Mr. Grandmaître: How long ago was this? Twenty years ago?

Mr. Fleming: Not quite; 15, I think.

Hon. Mr. Grandmaître: So it does not happen every week. Our field people are trying to monitor this, but it is very difficult. In the example you used where a municipality buys land today and services the land five or 10 years afterwards, it is very difficult to keep track of those costs. Our field people are doing their best to monitor these things and to keep a close eye on them, as are the municipal auditors; we have to rely on their people, but it is very difficult to monitor.

Mr. Fleming: A couple of years ago we did challenge a municipality for having sold land at less than market value. They very nicely came up with a bill of sale which a bank had made as a result of a foreclosure where the bank had sold the land for less than the municipality had sold its land. We were not sure this was correct, but it had enough evidence to show that land had indeed been sold in the municipality for less than the municipality had sold it, and so it alleged it had paid market rate.

Mr. D. R. Cooke: How does this reimbursement scheme work?

Mr. Fleming: The particular industry had received a benefit and was required to reimburse the municipality for the benefit that had been granted to it since the municipality had gone beyond its jurisdiction in drafting that benefit.

Mr. Chairman: Mr. Breaugh, would you allow me to move to Mr. Barlow? We could pursue this issue between us for the balance of the time, but Mr. Barlow has a specific question he wants to raise.

Mr. Barlow: Thank you. I am going to get on the topic of unconditional grants. For the past several years, I have had this as an issue that I have had to raise in this ministry. I think it was in November that you announced that unconditional grants would be something in the range of 4.9 per cent on average. That is probably what it would be considered.

Hon. Mr. Grandmaître: Four per cent, actually. Are these the unconditional grants I announced last year or this year?

Mr. Barlow: In 1986 for 1987.

Hon. Mr. Grandmaître: Four per cent.

Mr. Chairman: The ones that barely kept up with inflation. Those are the ones we are talking about.

Mr. Barlow: I noted in the press–I am sure my colleague from Kitchener will be interested and perhaps will wish to participate in this too–that the regional municipality of Waterloo had been informed, or perhaps it did the calculations on its own, that it was going to end up with two per cent out of the four per cent. In other words, it was half of what the provincial average would be.

The answer it has received so far is that it is a growing municipality, things are booming and so forth. However, the region's expenses still go on, regardless of whether or not there is a boom in the municipality. I am just wondering whether you have an answer with respect to why a municipality would receive only 50 per cent of the provincial average.

Hon. Mr. Grandmaître: You are quite correct. Eastern and northern municipalities will be profiting this time around from these unconditional grants. If a municipality qualifies for a 2.4 per cent increase, it usually means there is growth. This is what we take into consideration. The formula being used indicates that these municipalities do have the growth, and that is why they qualify for only 2.4 per cent. Other municipalities with no growth or very little

growth will qualify for three, four or five per cent. I know some municipalities in eastern Ontario that have qualified for 12 per cent, while others qualified for much less.

When you look at the unconditional grants program, I think we have done a tremendous job in the past couple of years, but again it is not the end of the world. We are continuing to try to improve this program, but you have to recognize that some municipalities do have the growth while others do not have this potential growth. I try to split up the pie as generously as possible.

Mr. Barlow: I know that its budgeting committee is trying to work towards a four per cent maximum budget increase across the board, but when it gets only two per cent–almost half of what it got last year, I understand–it will find it very difficult. It is the local taxpayers who will be footing the bill. It just seems that there should be a minimum that would help a municipality balance its budget.

Hon. Mr. Grandmaître: My initial announcement, though, was an increase of four per cent over the previous year, right?

Mr. Barlow: Four per cent over the previous year?

Hon. Mr. Grandmaître: Yes, and I kept that promise.

Mr. Barlow: Per municipality?

Hon. Mr. Grandmaître: Overall.

Mr. Barlow: Overall; so some would end up with much more.

Mr. Close: If you are talking about 1987 over 1986, the total unconditional grants have increased by 4.9 per cent. There was a guarantee in there that northern and eastern Ontario would receive at least five per cent more than the previous year and southwestern Ontario would receive at least two per cent more than the previous year.

The minister is quite correct; the issue in regional Waterloo is that the assessment growth rate, particularly in the north end of the region–not so much in Cambridge, at least until things happen with Toyota–has been extremely high. It is a high-growth municipality, and as a result of that, tends to come out somewhat lower than the other areas where we have seen very little assessment growth, very little population growth and they tend to get the higher percentages. This year, there was very much an emphasis on trying to assist the low-growth municipalities.

Mr. Barlow: I just wanted to try to get some information on that. If you have not already been approached, I am sure you will be approached, particularly by the regions, for a full explanation.

Hon. Mr. Grandmaître: They have.

Mr. Barlow: They have been in touch with you? I see.

Mr. Chairman: If there are no other questions, I will go to the vote now.

Vote 2201 agreed to.

Votes 2202 to 2205, inclusive, agreed to.

Supplementary estimates agreed to.

Mr. Chairman: This concludes consideration of the estimates of the Ministry of Municipal Affairs.

The committee adjourned at 5:55 p.m.

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Tuesday, January 13, 1987

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Hansard
Official Report of Debates
Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of Correctional Services

Second Session, 33rd Parliament
Tuesday, January 20, 1987

Speaker: Honourable H. A. Edighoffer
Clerk of the House: C. L. DesRosiers

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Cureatz, S. L. (Durham East PC) for Mr. O'Connor

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, January 20, 1987

The committee met at 3:28 p.m. in room 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

Mr. Chairman: Members of the committee, I recognize a quorum. I believe we can get under way with the estimates of the Ministry of Correctional Services.

With respect to the division of time, we will proceed as I believe has been the case in the past with the minister making his opening comments, followed by the comments of the critics. I will try to be as judicious as possible with respect to the allocation of time. Ms. Bryden went through estimates of the Ministry of the Solicitor General yesterday and is familiar with how we broke down and separated the times with respect to the various parties. Following the minister's comments, we will move to Mr. Cureatz, critic for the official opposition, and then to Ms. Bryden, critic for the New Democratic Party.

Members who wish to raise questions will have the opportunity to do so immediately following the minister's response to any of the questions raised by the critics. There is one question I want to bring before the members of the committee and that is the subject of a nine-minute tape that the minister has indicated he wishes to have shown to the members of the committee. As chairman, I have no objection to that. Perhaps the minister can do it as part of his allocation of time. If that is possible, I do not think there should not be any objection.

If there are members of the committee who have any feelings with respect to seeing the tape, recognizing that we may not have a full two and a half hours in that there could be a vote called at 5:45 p.m.–that is not definite yet. Before I left the House, I checked with the individuals who should have that information at hand and it still appears there could be a vote at that time. The bells may cut us off by 15 minutes. Otherwise, we will have that time for questions.

Mr. D. R. Cooke: How much time will be available for the members, as opposed to the critics?

Mr. Chairman: Time will be available for members and I will allocate the questions fairly among the three parties as soon as we get into–there will be no statements, obviously, from government members other than the minister himself, but questions will be more than appropriate.

Ms. Bryden: Yesterday, in a similar situation during the estimates of the Ministry of the Solicitor General, we had a sort of unofficial agreement that each leadoff would not be more than 30 minutes. If the minister is able to include the nine-minute film in his 30 minutes, I will be happy to see it. Otherwise, I believe it would be better to postpone it for a showing when all the members of the Legislature could be invited to come to a noon-hour showing or have some other such opportunity to see it. I do not know whether the minister is prepared to keep his remarks and the film within the 30-minute goal.

Mr. Chairman: I am trying to save some time. The minister has indicated that he does not know that he can include the nine-minute film, so he will withdraw the film.

Mr. Cureatz: What about his rebuttal? I would like the opportunity to look at it. He might even cut his rebuttal back. Have you allocated time for rebuttal on our questions?

Mr. Chairman: No; I do not know what questions the critics will raise, so it is difficult for me to take an anticipatory position at this time and reduce or curtail the minister's responses. That would be a little too confining. I have to play it a bit by ear.

Mr. Cureatz: I have a couple of key questions, if I have the chance. One will be asked, but by the same token I would drop some others to allow my time to go towards the tape.

Hon. Mr. Keyes: I have a suggestion. I do not mind leaving it. We can invite my critics and others to the Metro west office if they want to see it and show it at that time. I would be quite happy to do that. It was merely part of our new communications strategy to have this nine-minute film.

Mr. Cureatz: I believe it is important. All members are very busy. We do not have the opportunity to tear around. We are here now and this might be a chance. I will not belabour it but I believe we ought to try to work it in. I have a further question.

Mr. Chairman: All right, but if I can I would like to avoid arguing about a nine-minute tape.

Ms. Fish: He is arguing for nine minutes.

Mr. Chairman: Sometimes, as government members, we do silly things such as that and I would like to avoid it. We have spent four minutes on this issue; including the chairman's comments, I might add.

Ms. Fish: Silly.

Mr. Chairman: The chairman's comments were not silly, Ms. Fish, I want you to know that. They were an attempt to get the parameters drawn very tightly around this committee so that we understand where we are heading.

Ms. Fish: I do not think you took enough time to do that. Perhaps you would like to review those parameters.

Mr. Chairman: Can we proceed with the minister's comments and to the film? Do you have a question, Mr. Cureatz?

Mr. Cureatz: I have spoken to the critic for the New Democratic Party. Minister, I apologize that we have not spoken about this in recent times, but on other occasions when you and I have had the opportunity under social events to discuss the estimates, we thought that if and when they finally came forward, depending on the length of time, it would be worth while to have a general vote instead of proceeding through the estimates vote by vote.

Mr. Chairman: With respect to the question raised by Mr. Cureatz, it seemed to meet with Ms. Bryden's support last night that we leave all the votes and simply put them at the end of the debate.

Mr. Cureatz: That is right.

Mr. Chairman: We did not take them line by line. We have only two and a half hours. As chairman, I try to give a degree of flexibility to the members so they can roam all over the budget if they like, zero in on areas that are of concern and leave the votes until the end. If that meets with your agreement, it seemed to work out well last night. We are under similar time constraints today. I suggest we proceed in the same fashion. If that is agreed, we will move on.

We would like to welcome the Minister of Correctional Services who is wearing a different hat today from that of Solicitor General. Whenever you are ready, sir, we will have you proceed with your comments.

Hon. Mr. Keyes: I draw to your attention that we left a fairly bulky package on everyone's desk. If any member does not have one–I do not believe Ms. Fish has one at the moment, so be sure she is provided with one.

Mr. Chairman: We will see that she gets one.

Hon. Mr. Keyes: This contains a fair number of articles that we feel will be of interest to you because they reflect somewhat the direction of the ministry. We have a series of seven pamphlets that have been produced which talk about correction in one way or another. We also have New Directions, a pamphlet related to the reorganization within the ministry; and a newspaper, Corrections in Ontario: Everyone's Business, that was started back in August. We also have an interim copy of the annual report that will be made available to you fairly soon in bilingual form. I commend the kit to you. I am sure it will answer many of your questions as you peruse it later.

I take pride and pleasure today in reporting to you on the progress of the ministry throughout the past year. I will also be describing for you some of the new directions we are currently following in pursuit of a more effective, more humane and more cost-efficient correctional system for Ontario. The many programs and services provided by the ministry are covered in some detail in the annual report for the past year, which as I mentioned is in this kit for you. I have also provided a copy of our briefing book, which is the red one. It contains breakdowns of the expenditures and estimate figures.

As you are aware by now, the Premier (Mr. Peterson) announced last week that the ministry will be relocating its headquarters to North Bay in about two and a half to three years' time. This decision was taken to advance the government's aim to decentralize the economic benefits generated by government activity and spread these benefits more equitably across the province.

By the way, also within this kit is the information that was given to every member of the Ministry of Correctional Services at the same moment the announcement was made in North Bay.

The ministry employs approximately 400 professional, administrative and support staff at its head office in Scarborough. All but a small contingent of management support positions will be relocated to Ontario's gateway to the north. While the transfer date is some time off, staff committees have already begun planning for the move. I am confident that, with the highly attractive features of the city of North Bay and the district of Nipissing, many staff members will choose to take up the challenge of relocating. Others will be assisted in finding alternative employment as the time for the transfer draws near. It is clear that a significant number of

employment opportunities will be generated in the district of Nipissing as a result of the move. In the meantime, every possible effort will be made to ensure a smooth, orderly transfer of facilities and staff.

The past year witnessed a major surge in vitality in Correctional Services, with an intensive review, redefinition and refinement of the ministry's corporate objectives. The results of that review are embodied in a comprehensive plan that will guide the development of correctional services in Ontario over the next five to 15 years.

The plan reaffirms the ministry's goal of providing progressive, just and humane supervision and care to those who are placed under its jurisdiction. It holds as fundamental the principle that all correctional services should be designed and carried out in such a way as to encourage and promote responsible behaviour. The plan acknowledges that most offenders are supervised in the community and that nearly all those who are not return to the community within a few months. It highlights the intense need to increase and improve community-oriented correctional programs.

The corporate plan calls for greater emphasis on the special needs of specific groups of offenders–youth, women, elderly and disabled offenders and those who require treatment. The setting of a clear philosophical direction led the way for a structural reorganization in the ministry that took effect in April 1986. This restructuring was highlighted by the establishment of a new community corrections branch responsible for the development of all community-based correctional services.

The ministry's corporate plan incorporates many of the principles embodied in the Young Offenders Act of Canada. The emphasis on community involvement and the philosophy of creating practical opportunities for offenders to adopt crime-free lifestyles are two of the more important influences in the development of correctional policy today.

In Ontario, jurisdiction for young offenders is divided. The Ministry of Community and Social Services holds responsibility for children aged 12 to 15 years and the Ministry of Correctional Services is responsible for youths who are 16 and 17 years of age at the time an offence is committed. This means that our care and supervision of young offenders can extend well beyond age 18.

The Young Offenders Act took effect for the 16- and 17-year-old age group on April 1, 1985. To date, we have established a probation capability for more than 6,500 young persons, secure detention beds for 230, secure custody for 430 and open custody community residential accommodations for 390 young offenders.

Ministry staff have assembled a range of programs according to what are known as individual plans of care and treatment which are developed with wide consultation for each individual young person who comes into our supervision. As predicted, the implementation period has been accompanied by fluctuating statistics regarding the number of young offenders in various programs. By early 1988, we expect the counts to stabilize.

Current patterns in court dispositions and demographic trends anticipate increased demand for all types of supervision. Accordingly, probation services will be expanded over the next year to handle a total case load of up to 10,000 young persons.

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Supervision by staff probation officers will be augmented by the addition of more services for the administration of community service order programs, drug and alcohol rehabilitation programs, psychological counselling and life skills education. Requirement for secure pre-trial detention beds is expected to remain at the current levels for the next year.

The ministry has begun replacing its present network of interim detention facilities with permanent accommodations at 16 locations throughout the province. Long-range plans call for the creation of permanent secure detention facilities in Windsor, London, Guelph, Hamilton, Niagara, Metropolitan Toronto, Cobourg, Napanee, Ottawa, Barrie, Sudbury, Sault Ste. Marie, Monteith, Thunder Bay, Kenora, and one other location in eastern Ontario that is yet to be finalized.

Longer-term secure custody has, until recently, been provided at secure detention facilities and at the Bluewater centre for young offenders near Goderich, which was officially opened in February 1986. Anticipating a 20 to 25 per cent increase in the demand for secure custody over the next fiscal year, the ministry last fall negotiated the transfer of three youth custody institutions from the Ministry of Community and Social Services. The official transfer date for these facilities is April 1, 1987.

Sprucedale Training School in Simcoe, Brookside Training School in Cobourg and the Cecil Facer Youth Centre in Sudbury are all in

the preliminary stages of being adapted to current standards for the 16- and 17-year age group.

Work scheduled for completion in 1987 includes adding accommodations, bolstering existing security measures and renovating classrooms and other program areas. Plans for the development of correctional youth centres will fulfil the ministry's requirements for secure custody for an anticipated 545 young persons.

For additional institutional requirements, the ministry will continue to take advantage of existing properties wherever possible. Instead of extensive new construction, development will concentrate on creating programs and environments intensely devoted to motivating change and rehabilitation in young offenders.

As with adult institutional programs, youth facilities will participate in the ministry's self-sufficiency efforts, geared to offsetting costs of operation. Vegetable gardening is just one example of activities that can be conducted at almost any institution. As you know, many of our adult institutions are engaged in full farming operations, while others employ inmates to manufacture institutional goods and equipment.

The ministry estimates the capital costs necessary to complete the development of young offender secure detention and custody services, not including the Bluewater centre, will be in the order of $39 million in 1986 dollars, excluding architectural and engineering fees.

In addition to secure correctional environments, the Young Offenders Act mandated the establishment of open custody services in communities throughout Ontario. This provision is intended to enable continuous, supervised contact with the community–schools, employment, families, social services, treatment and other positive influences–while restricting exposure to elements that may lead to further conflict. Communities throughout the province have been struggling to reconcile the inherent benefits of the community residence concept with fears for personal safety, property values and quality of life in their neighbourhoods. While much progress has been made to date in setting up open custody environments, the ministry continues to face opposition in some locales.

The ministry's ongoing public communications program has recently been redoubled in an effort to garner public understanding and support for open custody as well as for other correctional programs in the community. Part of this work is reflected in the literature we have included in your briefing package and would have been seen in the nine-minute film.

The ministry is committed to pursuing the establishment of open custody residential services in communities throughout Ontario in accordance with the Ontario government policy on the establishment of such homes. The ministry projects a need for 534 beds by 1988. While these will consist, in the main, of neighbourhood youth residences, they will be augmented by a number of family-assisted and band-assisted open custody placements for young offenders living on native reserves and in remote areas of the province.

In summary, the implementation of provisions under the Young Offenders Act has proven to be a difficult yet manageable challenge. We are generally pleased with the progress made to date, but recognize that it is only a beginning and that ironing out all the wrinkles, both in the law and its application, will continue for some years to come.

Of equal concern are the number of offenders who enter Ontario's correctional system suffering from some form of mental impairment. A snapshot survey conducted last spring indicated that 959 inmates, or 15 per cent of the province's total inmate population, could be considered to be experiencing psychiatric, psychological or behavioural disorders which could be improved through treatment. Added to these were another 148 inmates determined to be mentally retarded and in need of some form of specialized care.

The ministry has begun, during this fiscal year, to pay particular attention to the needs of these groups in the context of its strategic planning exercises. The development of a broad range of treatment and specialized care capabilities is important, not only for the wellbeing of those in our care but also in the long-term best interests of the communities from which these offenders come and to which they will all eventually return.

Earlier this year, I announced four major initiatives that would have significant impact on our ability to provide treatment for those in need of such services.

First among these initiatives will be some organizational changes reflecting the ministry's need for clinical leadership and supervision in the area of treatment. Second is an impending expansion of our network of fee-for-service contracts with consulting psychiatrists. Third is near-term planning for additional treatment beds as well as a range of community treatment programs to serve the needs of offenders throughout all regions of the province. Fourth was the establishment, in October 1986, of a

major new treatment capability in eastern Ontario.

The opening of the Rideau treatment centre on the grounds of the Rideau Correctional Centre in Burritts Rapids last fall brought the number of provincial treatment facilities in Ontario's correctional system to four. As a reminder, these include the 220-bed Ontario Correctional Institute in Brampton, more commonly known to the public as OCI; the 50-bed Guelph assessment and treatment centre, known as GATC, a maximum-security treatment unit at the Millbrook Correctional Centre near Peterborough for inmates who exhibit extreme behavioural problems and present a security risk; and the 84-bed Rideau treatment centre.

During the year, the ministry also increased the number and extent of fee-for-service contracts with consulting psychiatrists. Overall, the ministry increased its financial commitment to offender treatment by nearly 30 per cent, to a total of $17.6 million. Throughout the coming year, the continued upgrading of treatment facilities, programs and professional consultational agreements will be mapped out in even greater detail.

We have been working for almost a year with regional and municipal officials in the north in an attempt to confirm details for a northern treatment centre. I will be taking the matter to my cabinet colleagues for recommendations shortly and I expect a decision will be made some time in February.

Our considerable efforts at upgrading treatment services are guided by the obvious and pressing needs of the many people under the ministry's care whose conflicts with the law may very often be the result of psychological or psychiatric impairment. These measures are consistent with the ministry's goals of providing rehabilitative opportunities that can enable those who come into our supervision to be integrated or reintegrated back into society as productive, law-abiding citizens.

Probation and parole services are currently delivered through 48 area offices and 60 sub-offices divided among five geographic regions. A total of 547 probation and parole officers report to 48 area managers. Of the staff members, 115 are supervising young offenders in the community. A total of approximately 43,000 offenders are under community supervision on any given day.

With the growing trend towards community correctional programs, the challenge of managing offenders has intensified. This is not exclusively due to increases in the numbers of clients assigned to each officer; in fact, client-officer ratios are very much the same today as they were in 1952. Rather, in recent times the nature of case loads has changed, with higher numbers of offenders with multiple problems being supervised in the community. This means there can be a vast discrepancy between the amount of supervision required, as well as the time and the effort involved to supervise one probationer compared with another.

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The growing availability of services through transfer payment agencies and other government-funded social services for correctional use in the community has added to our ability to assist offenders.

Alcohol awareness, driving while impaired, employment counselling and family violence programs are among the many contracted services employed by probation-parole staff, but they have also added to the complexity of offender management.

Already highly skilled probation-parole officers are adapting to changing practices and priorities. New demands for liaison with the courts, with victims, with institutions and with the community have also added to the work load.

To ensure that the most appropriate resources are allocated where they are most needed and that adequate protection of society is maintained, the ministry has brought new case management techniques and standards into full implementation this year. When not dictated by the court, the degree of client-officer contact is now guided by the use of modern classification techniques such as the level-of-supervision inventory profile, which is completed for each offender who is admitted to community supervision.

Objective measurement techniques must always be supported by the professional experience and judgement of the probation officer. A new set of policy standards assists probation staff in determining the frequency of reporting and documentation required for each client. I am confident that the combination of new risk-benefit assessment techniques and responsible judgement on the part of probation staff will maintain and improve the effectiveness of probation-parole services provided by the ministry and its associated agencies.

Ongoing refinements to community supervision coupled with active exploration of new techniques will ensure greater advances in the future. Some such techniques under present investigation include redistribution of current

resources, the establishment of attendance centres offering centralized and intensive day program contact for higher-risk offenders, and electronic monitoring, a new and as yet largely untried concept whose ethical and practical implications will have to be explored in considerable depth.

Finally, I would like to comment on the development of the ministry's most highly valued asset, its human resources. Staff of the Ministry of Correctional Services serve the public in an area where there is no glamour and little recognition. Many work in outdated conditions with desperate and disturbed individuals.

To be successful in this type of work takes patience, persistence and a commitment to the belief that changes in attitudes and behaviour are possible, given the right opportunities and the right support. To manage such a work force successfully takes a high level of innovation, administrative skill and human relations expertise.

The amalgamation of the staff training branch with the human resources branch in April 1986 is helping to ensure a more cohesive and effective approach to human resource planning and development. A comprehensive range of courses, from basic correctional officer training to advanced management techniques, was provided to more than 5,000 employees last year. Staff training supports the high levels of skill and professionalism the ministry has come to depend on in its operations.

Throughout our communications, we are attempting to improve the public perception of correctional personnel, to illustrate the tough job this ministry and its employees do for society and to show how public support for the ministry's work can make the results better for everyone. In-depth strategic and long-range corporate planning; the development of specialized correctional programs and facilities for young offenders; increased emphasis on offender treatment and rehabilitation; innovative strides in correctional case load management and rededication to human resource development: these are some of the priorities at the top of the agenda in corrections today and for the future.

My deputy minister Bob McDonald is to my left, and Mr. Duggan, Mr. McCarron and other staff members are here as well to answer any questions that may be in the minds of members today. I thank you for the opportunity to present this opening comment on estimates.

Mr. Chairman: Thank you. Do you wish to proceed now with the film? I understood that was by agreement of the members and that you wanted to see it.

Hon. Mr. Keyes: I would rather let these people have the time to comment. I am in your hands.

Mr. D. R. Cooke: Mr. Cureatz indicated that the film would probably be more valuable than anything he had to say.

Mr. Cureatz: I did not indicate that. What I indicated was that I thought it would be useful since the minister invited all members to the various correctional institutions. I said that under the time restraints all members have, it is sometimes impossible to visit all the institutions and it might be worth while to examine the film so that we could have a capsule comment. I am taking up more time. Is the minister's allocated time used up or does he have nine minutes left?

Mr. Chairman: He really does not have nine minutes.

Mr. Cureatz: Then I think we will keep the film until the end and let the critics' statements get under way.

Mr. Chairman: With that in mind, we will move to your comments.

Mr. Cureatz: With that in mind, if my colleague the member for Northumberland (Mr. Sheppard) might distribute some of my comments, at least to the minister and the chairman, I would appreciate it very much.

I begin by saying I am disappointed in the continual delay that we seem to have encountered in these estimates. Of course, that is no particular reflection on this minister, as the delay is in terms of the executive council. For me personally it has provided a degree of frustration, because I have always intended to build up an approach to my position in examining the ministry and follow through with questions pertaining to concerns of mine. That made it somewhat difficult over the past year because of the few opportunities when a member is allowed to ask questions in the House. Even the chairman will remember a particular occasion when a member of our own side was upset that I had the opportunity of asking a question of the minister on this portfolio.

The continual delay causes a degree of frustration. Possibly the minister can report back to his executive council colleagues that, notwithstanding that quite often this appears to be one of the lesser ministries, in my estimation it is darned important that we have the opportunity to proceed with estimates as quickly as possible in regard to this portfolio. It affects a lot of people in Ontario, whom we all represent, and it is

incumbent upon the government to ensure that we get on with the estimates as quickly as possible. I get tired of being shoved aside time and time again by the Minister of Health (Mr. Elston), the Attorney General (Mr. Scott) or the Treasurer (Mr. Nixon). If you would be so kind as to report those comments, I would appreciate it.

My colleague the member for Grey (Mr. McKessock) is here. As a former Deputy Speaker, I remember only too well that when he had the position of critic of this ministry, from time to time I listened with great interest to his continued concerns. I must now confess a degree of sympathy with what appeared to me then as possibly a shunning of this portfolio to a lesser degree. Now that I have had the opportunity of waiting patiently and reviewing as much as I can of what takes place in the ministry, I am sympathetic with Bob in the able job he did in the past.

To begin on a positive note, let me congratulate the ministry on its policy of decentralization and the move of some 325 jobs to North Bay. That purchasing power means a lot to a small community, but what may be more important is that it brings government closer to the people. In supporting decentralization, we can all agree there is a certain wisdom in quiet places.

However, I bring to the minister's attention that many of us are concerned about the breakdown of costs. If the minister would be so kind as to make a note of this question so that he can respond at another time, I would like some information of his planning in terms of the breakdown of costs of this move, in terms of the housing move of those employees who will be moving to North Bay, the cost of the appropriate facility the ministry will be using; and for those employees who are not moving, the cost of advertising and seeking out other employees to replace those who are not moving, and the cost in terms of severance or whatever provision is being made for those employees who are not going.

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I think the decentralization program is helpful in the province. I can think of the Ministry of Health in Kingston and in more recent times, in the past four or five years, the move of the Ministry of Revenue to Oshawa, with which the minister is familiar. The city of Oshawa as well as the region of Durham was very receptive to that move, but by the same token I can assure you that with the humble, now almost 10 years of experience I have had as a representative for my area of Durham East, I encountered some unique problems with such a move and those unique problems are as unique as the individuals who are affected.

That is what is so incumbent upon us: to have a realization that a move of this nature is well enough and easily enough said, but it is another problem to perform it on a practical basis when you are dealing with people. I hope your staff will be monitoring very carefully the approach it has taken, possibly in comparison to the moves of the Ministry of Health and the Ministry of Revenue and, trusting that you will have an overall approach to the problem, I will be following up with you at other times.

What I cannot accept, or perhaps I should say cannot understand, are what I refer to–since it seems to be the cliché to use nowadays–as the three black holes in the briefing book for the 1986-87 estimates.

The first black hole is in the presentation of the estimates. I assure the minister I am not singling out him or his staff in terms of the manner in which the estimates were presented. With the time and experience I have had in the chamber and my brief time in the executive council, I know the panic that is always involved in getting these documents prepared. However, there must be a saner way for all of us as parliamentarians to prepare for the estimates, no matter what particular portfolio.

In any event, let me refer specifically to some of my concerns. I did not receive any briefing material on these estimates until a book of statistics turned up under a covering letter dated December 26, 1986. On December 25, I was otherwise engaged, as most of us might have been, and it was hardly the time to plunge into that type of material.

The covering letter informed me the estimates would be coming before the standing committee on administration of justice some time in February, and I quote, "...and our annual report and other details will be available just prior to that time."

Here we are on January 20, and I found the briefing book on my desk on January 12. I see on page 11 that we are being asked to pass estimates of $250,509,200–a quarter of a billion dollars. I also understand this committee will sit for three hours and, given the probability of a spring election, it is unlikely we will meet again.

The point? We have here a case study in what is meant when it is said that public spending is running out of control. In about a month's lead time, if you work from the receipt of the statistical report, or in eight days if you work

from the arrival of the briefing book, we are asked to vote on a sum that staggers the mind. To put it another way, in a three-hour meeting we are asked to pass $80 million an hour or better than $1 million per minute.

This is not a parliamentary process; it is a mindless ritual. There is no possibility of careful thought, of taking the measure of the cost-benefit of particular programs, of any responsible process you may care to think of. However, at even the briefest glance it is clear that every item in the estimates seems to be edging upward. This ministry is rolled into the overall provincial budget and that is covered by an annual deficit. If you can trust the Financial Post, the combined municipal, provincial and federal debt works out to $63,000 per wage earner or 35 per cent of revenue.

Again, the point? If the unchecked spending we are looking at here is not stopped, possibly the system will be pushed into collapse and certainly rising interest payments will depress essential services. In so many words, when does the minister intend to give evidence of financial responsibility?

The second black hole is the effective use of community resources. The centrepiece of the briefing book is the ministry's emphasis on the use of community-based resources. You will find this stated on pages 3 and 5 and repeatedly in particular programs, and indeed, Minister, in some aspects of your opening remarks.

The second black hole in the estimates is that I cannot find where the ministry meets what the federal Nielsen task force has defined as the essential condition of the effective use of community resources, namely, the co-ordination of Correctional Services in Ontario with Corrections Canada.

Let me quote what the task force has to say about the friction created by the federal-provincial split in jurisdiction in corrections in the volume Justice System, which one of your colleagues has over there, in its final report entitled Improved Program Delivery (1986): Justice System, A Study Team Report to the Task Force on Program Review. Let us take a look at page 288:

"The federal-provincial split in jurisdiction in corrections has existed since 1842, and is both an 'historical accident' and entirely arbitrary. In essence, the federal government imprisons and supervises after release all persons serving two years or more, and the provinces are responsible for community-based sentences and prison terms of up to two years less a day.

"This arbitrary split causes administrative duplication and overlap between the two levels of government. Perhaps more important, however, it causes inefficient and ineffective use of all resources by both levels of government, which wind up competing for staff, community services and private sector resources, as well as placing often conflicting demands on related social services such as education, health care and housing, which are delivered mostly at the provincial level.

"The study team proposes that interested provinces or groups of provinces be allowed to assume full responsibility for all corrections within their borders, through the most appropriate mechanism, constitutional reform or delegation."

For greater emphasis, the report repeats the point on page 296. Let me quote from that page of the report, under the description of the split in jurisdiction according to the two-year rule:

"There is universal agreement among federal, provincial and private sector representatives that the two-year rule is entirely arbitrary and a constitutional anomaly. Further, it creates practical difficulties which impede effective service delivery and efficient administration. Both federal and provincial governments operate programs of imprisonment and programs of community supervision of offenders. Both systems must bear the attendant administrative and other overhead costs associated with their service delivery. The two levels of government often end up competing in an unhealthy way for staff, community services and private sector resources."

Frankly, this report blows the claim to make greater use of community services out of the water unless the ministry can demonstrate progress in resolving overlap and competition for resources. I gather the machinery is in place for liaison with Corrections Canada from the description of the analysis and planning division on page 38 of the briefing book. What progress has been made in terms of the liaison?

In passing, I might just observe that this pall of silence is in remarkable contrast to the conspicuous efforts of the Attorney General to co-ordinate the federal and provincial justice systems.

At the outset I mentioned three black holes, great gaps or silences, in the briefing book. The third of these is the lack of any meaningful discussion or analysis of the causes of delinquency, of the alternatives in correction or of a realistic appraisal of results.

To deal with these questions in that order, the briefing book makes much of the ministry's

response to the Young Offenders Act. Indeed, so did the minister in his opening statement. What is ignored is that if the growth of this class of offence is not checked the system will be swamped, as any system would be.

In 1986, the Senate of Canada noted the following in its report entitled Youth: A Plan of Action, a report to the special Senate committee on youth, chaired by Senator Jacques Hébert, as I understand it. Of course, he has been part of other noteworthy incidents that have taken place in the past year or two. On pages 18 and 19, the Senate committee stated:

"The number of crimes against the person allegedly committed by juveniles has increased to eight times the 1962 level. Their crimes against property in 1981 were six times higher than in 1962. This increase in crime exceeds the growth of the juvenile population severalfold."

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What did the Senate see as the cause? Taking a look–again from the report, at the top of page xii at the beginning, which was an attempt to be a synopsis of the whole Youth: A Plan of Action report of the special Senate committee on youth–it says:

"While we were unable to establish a direct relationship between youth unemployment and the upsurge in alcohol and drug abuse, prostitution, suicide and delinquent behaviour in general, the members of the committee concluded that while unemployment may not be the only cause of these problems, it is none the less a leading one. It should not be forgotten that the major cause of both youth and adult unemployment is the official shortage of some one million jobs in this country rather than the personal characteristics of the unemployed.

"Approximately 500,000 young Canadians fall into the category of the unemployed, as noted in the Statistics Canada data. This figure does not include the 20,000 youth who, having despaired of ever finding work, have simply stopped looking and are, therefore, not included in the official statistics. Nor does it take into account the 180,000 'underemployed' young people who are working part-time because they cannot find full-time work. The 'real' number of unemployed youth is closer to 700,000."

I realize that the Senate's report applies to youth across the country, but Ontario being the largest populated province, no doubt a percentage breakdown could be worked out in terms of the unemployed youth problem in our province.

While young offenders are normally not on the labour market, they know, in the language of the Senate's report on page 85, and it is my last quote from that report:

"There is no question that the state of the Canadian economy has improved over the past two years. Demographic forecasts show that the number of young people in the labour force will decline over the next few years. However, as a report of the Macdonald commission points out, the unemployment rate will remain high. Since unemployed adults are hired or rehired before young people, the latter will be at a disadvantage for many years to come. This realization led Professor Graham Riches from the University of Regina to comment during our hearings that many of the young people out of work today will be unable to find a job during their lifetime."

I find that statement a little staggering. I am not comfortable with it. I have confidence in, at least in Ontario, our educational institutions and system and in some of the rehabilitation programs from your ministry. I am confident that will not take place for the majority of our youth. However, it is upsetting.

Many drop out of school and the Justice System report mentioned earlier describes how the situation compounds itself. Turning to pages 287 and 288:

"People who end up in prison present a multiplicity of problems: 40 per cent are functionally illiterate; at least as many have a drug or alcohol dependency; and most have few marketable skills and a history of sporadic employment; many have learning disabilities, poor social skills, family problems, and low maturation. A few have severe mental disorders but cannot be accommodated by the mental health system. Far from concluding that the effort to deal with these problems is a 'frill' which cannot be justified in an era of restraint, the study team finds that discouragingly little is being done about these problems."

Evidently, the most promising approach to young offenders is the prospect of work and hence a place in the adult world. Why then do we not find in the briefing book some indication of co-operation with other provincial ministries in a concerted attack on youth unemployment? On page 38, the activity report on vote 1301, item 7, analysis and planning; the analysis and planning division is described as organized to do just that: "This branch serves as the ministry's liaison to the provincial government's central agencies as well as appropriate federal government departments."

Young people with jobs or aiming at jobs are unlikely to brush with the law.

To turn to alternatives in the correctional system, a training paper which is required reading in one of the ministry's in-service courses opens with this discouraging observation: "The dimensions of the task of changing a criminal to a responsible person are poorly understood. The procedures that have been used with criminals have not been effective."

I suppose the long and short of it is that sometimes, discouraging as it is, those kinds of negative statements are made by people who unfortunately already have an attitude; the people who are asked to work with those in our institutions become narrow-minded in terms of what can or cannot be done for those in the institutions.

There is some evidence that the ministry believes that behavioural modification is exclusively a psychological problem. Page 51 of the briefing book, vote 1302, operations program, appears to suggest this when it lists four objectives, the third of which is, "To develop, implement, co-ordinate and evaluate a continuum of correctional programs and services which will motivate offenders towards positive personal change."

I commend the ministry. That is certainly the approach all of us would like to see continued, at least in terms of our reach. In other words, it is all in the mind, and the behaviour of the offender can be corrected by counselling and environmental changes. However, if one turns to page 57 of the briefing book under vote 1302, operations program, item 2, offender programming, activity report, item 4, health and professional services, it seems the senior medical adviser sees behaviour modification as having more dimensions than the purely psychological. It states:

"The senior medical adviser is the manager of a newly formed section that includes health and other professional services. This section provides consultation and professional co-ordination of services in the areas of psychiatry, nursing, medicine, dietetics/nutrition, psychology, social work, dentistry, pharmacy and recreation."

I have just received a report about optometrists being concerned that there be further and greater investigation of those entering into institutions to assess the relationship of something as physical as poor eyesight and the ability to be able to function in our community.

Which track is the ministry on? If the latter, does the senior medical adviser have a backup staff in the numbers and with the training to make possible what comes down to a group practice? Whichever, the committee meanwhile is left to swing in the breeze about whether the ministry has a clear picture of what it is aiming at or what means are appropriate and adequate.

One thing is abundantly clear: the medical adviser faces a massive problem. Statistics for the state of New York show the average inmate has more ailments than the average patient in the state's hospitals. We had an opportunity of seeing on TVOntario some programs that were brought forward in terms of some of the difficulties institutions are having throughout the world.

I had occasion to be in contact with one of the doctors interviewed on the program. He was from Washington state. I had written him after he had come to town another time. We had talked and he very kindly enclosed for me some material he thought would be of interest. He was more than concerned about this very aspect.

This is from "The 'Health' of the Parolee: Clinical Considerations." Without reviewing the whole article, we are taking a look at the abstract, "Within the limits of this meaning instrument, the general notion is that the parolee is not healthy. In the limited comparisons possible in New York, the parolee is sicker both physically and mentally than the average New York hospital patient."

That is an astounding comment. I give the minister credit that he indicated in his opening remarks his concerns about the psychological and mental problems of those inmates. However, I made a specific note, and we will go to that quote later if we have the opportunity. I am wondering whether something as obvious as the physical observation of the inmate is being overlooked.

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What are the results obtained by Correctional Services? The success of the parole system is impressive. We can take a look at the briefing book again, page 47, vote 1301, ministry administration program, item 11, Ontario Board of Parole, activity report. Take a look at the third paragraph, mid-way through: "In 1985-86, 84 per cent of the offenders released on parole completed their obligations successfully. Of the 16 per cent who had their parole revoked, approximately three per cent committed other offences while on parole."

Together, of course, the three per cent of offenders and the victims of their crimes are a disturbing picture. The punishment of the former should be swift and exemplary and the compensation of the latter equally swift and generous, a

built-in cost. But taken as a whole, on balance, the Ontario Board of Parole seems to be doing a good job.

Red lights begin to flash when one looks at table 9 of Correctional Services statistics on page 36 of the annual report. We will not review the table in detail, but it is headed "Admissions and Sentences to Imprisonment of Those with Prior Incarcerations: 1985-86." The table falls into two parts. The deputy minister might take a look to see whether my interpretation is incorrect. Those admitted with prior offences are 26,490, and those sentenced with a history of prior admission are 25,007. A note below the table reads:

"Table 9 provides information on admissions and sentences to imprisonment of those with prior incarcerations within the province. Note that while they accounted for 53.6 per cent of the persons admitted, 69 per cent of the counts of offences leading to admissions involved those with prior incarcerations."

When one sets these figures against those for the parole board, it seems we have two classes of inmates: those who have merely brushed with the law and who are straightened out with a scare and a hard core whom the system cannot reach.

I find some confirmation of this in table 6 in the same material on page 34. The title of the table is "Age of Persons Admitted and Sentenced to Imprisonment 1985-86." The distribution by age is a bell-shaped curve with a low shoulder for the group 16 and 17 years of age, young offenders, and then a sharp rise peaking at the ages 23 to 30, falling off sharply to a corresponding low shoulder for the group 50 plus.

What this seems to say is that Correctional Services warehouses the criminal hard core until they learn in the school of hard knocks over a period of time, rather than learning from the system. I have made inquiries of how many of these hard-core repeaters serve time in federal institutions, but comparative figures do not seem to be readily available. The minister will recall I had the opportunity of asking him about that back in November 1986. I know he is having difficulties in finding those figures.

This is not the place to launch into an extended discussion of theories about criminal rehabilitation. I merely ask whether the minister is exploring cost-saving shortcuts in what seems a drawn-out and costly system otherwise. In the US, for example, there is a growing gloves-off movement: hit the repeaters soon and hard, and hit them fast. There are many sides of the question to be looked at.

We have been looking at three major areas in the briefing book, areas of concern that I call black holes.

Mr. Chairman: Speaking of black holes, you have about four minutes, if you can wrap up at that point.

Mr. Cureatz: I have another page and a half.

Do these three areas of concern in the briefing book point to a basic fault in the Ministry of Correctional Services? Obviously, there are indications that Correctional Services should be–here comes the drum roll–a full-time portfolio. At present, the minister holds the portfolios of Minister of Correctional Services and Solicitor General. Their respective budgets are, as indicated earlier, approximately $250 million, and then taking a look–you have just gone through it all so you are probably tired of the red book–$339,641,800; in round numbers, it is $500 million.

Minister, we are indicating some sympathy. How can one man nourish a constituency–if he does not do that, he will not be around for long as an elected representative–attend the House, cabinet and caucus, listen to back-benchers' concerns by appearing in their ridings, keep an eye on regional interests in his part of eastern Ontario and effectively keep a rein on a vast variety of programs spending $500 million?

This situation may have been an unavoidable necessity when the Premier formed his government and had few members with experience in the House to draw on. Meanwhile, a number of bright new members–where are all the Liberals who should be listening to this?–have found their feet and combining two such major portfolios cannot be justified. If the affairs of Correctional Services are to be set in order, the ministry must first be a full-time portfolio.

I began on a positive note and let me end on one. I notice reports of self-sufficiency in the briefing book. The minister referred to these in his opening remarks. It states on page 62 under vote 1302, operations division; item 3, institutional services, activity report, self-sufficiency and industrial programs:

"Both self-sufficiency and industrial programs enjoyed an active and productive year. Total production of a variety of crops totalled almost 1.5 million pounds of vegetables. The security requirements of a number of additions to facilities were provided by prefabricated cells and hardware produced in ministry shops employing inmate labour.

"A similar activity level is anticipated for the coming year."

This of course represents a huge saving, but what may be more significant is that it represents a constructive environment. I notice too that 5,599 volunteers in the past year were involved in some part of the correctional system. On page 61 under volunteer program, it states:

"Volunteers provide an invaluable service to all areas of ministry programming. This past year 5,599 volunteers were involved in some part of the correctional system. Programs provided ranged from Alcoholics Anonymous to art and crafts training.

"The continued and heightened participation of volunteers is an important element of the ministry's plans. The numbers of volunteers are expected to show accelerated growth in the coming year as the ministry undertakes more community programming and a major corporate communications effort."

These include–I have five more sentences.

Mr. Chairman: I know you have prepared an excellent ending and I wonder whether you can get to it.

Mr. Cureatz: These include, to my knowledge, retired teachers who are making an inestimable contribution in dealing with the ugly and complex problem of adult illiteracy. I know I am expressing the view of all here, irrespective of party, when I ask the minister to find an occasion for an all-party vote of thanks to these thousands of volunteers who are contributing so much to the province as a whole and to its individual citizens.

Let me thank my friends in the other parties for their patience while I fought my way through the problems of Correctional Services and all of us waited for the ministry to declare itself, little puffs and new releases aside.

Today marks a change of course. From now on, I will be relentless in pressing for a full-time portfolio and all it means to the corrections ministry. As a beginning, I am asking for the inspection reports of the individual institutions. I will check these out, time permitting, within the locality in which I am located, on my personal visitations. Perhaps those may be provided for me at another opportune time. Again, thank you for allowing me the opportunity for my opening remarks on the critique of this ministry.

1630

Mr. Chairman: Thank you, Mr. Cureatz. We will now move to the New Democratic Party.

Ms. Bryden: Mr. Chairman, I think you are keeping us pretty much on schedule. I will try to keep to my 30 minutes.

As I mentioned yesterday, minister, the Solicitor General's estimates were a new experience for you because it is the first time they have come up since the change of government. They were also a learning experience for me since I have had these two portfolios of Solicitor General and Correctional Services for just under a year. We are engaged in a learning process today and a great deal of information is being not only brought out but also discussed.

I expect a new minister and a new government to be a new broom and to bring in innovative policies and update existing laws, particularly when they take over from an administration that was in for 40 years. It seems to me the main mandate or goal of the minister should be to modernize our prison and corrections system.

I have listened to or read a number of the minister's speeches. I am impressed by your philosophical approach to corrections, that you would like to see the rate of incarceration reduced. In Canada, it is the second highest in the world. I am not quite sure where Ontario stands in that list. It is essential to have a correctional philosophy aimed at reducing incarceration and looking at alternative programs. We are facing a situation of overcrowding and understaffing right now in our prison services. You will never correct these two situations until you start to make alternative programs an integral part of your ministry's activities and not just an adjunct that may have some effect in reducing recidivism.

In your statistics, I noticed that there appears to be a 46 per cent rate of recidivism–it is tough word to pronounce–repeat visits to prisons and the courts. Your statistics indicate the nature of our prison population, that 47 per cent of persons admitted to imprisonment in 1985 were between 18 and 25. This indicates the kind of programs we are going to have to look at to help that category of persons stay out of prisons or go through alternative programs that may prevent them going back in.

The statistics indicate that the minister's goals have not yet been achieved in many ways. I notice that the minister provides us with a goals statement in the briefing book. While I guess you might call a lot of it motherhood that we all agree with, it differs somewhat from the goals in the last annual report of the previous administration. It is interesting to compare the two. There is more emphasis in the present minister's goals on programs being community-based. Unless we involve the community in programs, prison

programs and prison correctional budgets are not going to get much attention.

In particular, I commend the minister for having as one of his goals "the participation of a well-informed private/voluntary sector and other government agencies should be supported to strengthen the delivery of correctional services." He proposes both involvement of other agencies and the private/voluntary sector.

I know from working with such groups as the Elizabeth Frye Society and the John Howard Society that unless there is sufficient access to information about what goes on in the prisons, the private/voluntary sector cannot do a great deal. They must be allowed access to the prisons and opportunities to speak with inmates in a fairly unrestricted way; that is, not necessarily just through a telephone system and a glass wall, but also in informal meetings at times, under supervision of course to make sure that security is maintained. We have to move towards that kind of participation as one of the major goals.

Another way of finding out more about what goes on in our prisons is to consider a recommendation from an organization that has been set up in the past couple of years called the Canadian Campaign for Prison System Improvement. Its main directors are six very distinguished Canadians. It is headed by Professor Israel Halperin of the University of Toronto and its members are Edward Scott, Archbishop and former Primate of the Anglican Church of Canada; June Callwood, author and journalist; Clarke MacDonald, former Moderator of the United Church of Canada; Pierre Berton, author and broadcaster; Yvon Beaulne, former ambassador to the United Nations Human Rights Commission.

Those six people are putting on a campaign, at the moment mainly at the federal level, to suggest that we need to get not only a clearer picture of what goes on in correctional institutions and the programs, but also a person who would at least investigate and report on the operation of prisons. They would like to call him a prison auditor general and he would have somewhat the same role and the same powers as the Auditor General of Canada who examines the finances of the government and points out where money is being badly used or is not directed to the purposes for which it was voted. He would also have powers of investigation. He would be appointed by Parliament, not by the government and would report to Parliament, which is what the auditor general does.

Would you support the appointment of a prison auditor general for Ontario? It seems to me to be a very worthy concept.

Going on to the philosophy of our correctional system, we have to consider new approaches to overcome this reliance on incarceration. It is the only way to overcome overcrowding and recidivism. The minister already has dwelt on some of those alternatives, which are group homes, but I understand that he suggested we would be seeing legislation in this area before the end of 1986.

Legislation is needed to overcome some of the community resistance to group homes going into different areas on an equal basis, where every community would have some but they would be under guidelines to protect the community or at least to overcome community fears about group homes. Group homes seem to be one of the main alternative facilities to prisons and give young people a chance to become integrated into the community and to learn how to become productive members of that community.

1640

I have had some experience with group homes in my own riding. I have seen one where the proposal suddenly emerged in the middle of a municipal election campaign and was soundly defeated by opposition from citizens who in many cases were not fully informed as to the purposes or objects or how it would work. In two other cases, group homes have been established by careful preparation and involvement of the community in the planning process before the home was put into operation.

A lot of people do not realize that for those new homes, the rules that were drawn up by the community to govern those homes were that there should be members of the community on the board of directors and that members of the community should have some say on the curfew times and the number of staff, and even should have a veto on the inmates who are invited to live in the homes. I think it is taken for granted that most group homes are not organized for people who have a record of sexual or violent crimes. Communities are naturally nervous if this kind of person is accommodated in a residential area, even though a great many of their fears may be exaggerated. Group homes for those groups may have to be in semi-industrial areas.

I would like to ask the minister whether he is contemplating bringing in province-wide legislation to set up some guidelines in the field of group homes to ensure that every community has an obligation to provide some group homes. It could be required that not more than so many be established in any given geographic area, but there would be equality. You would not have just the areas that were willing to accept group homes

receiving them and ending up with an excess number while another area had none at all.

In my own area, I had the pleasure of joining in the official opening of what is known as the Blue Jays Lodge operated by the John Howard Society. The ribbon was cut by two members of the Blue Jays team, along with myself and other dignitaries. Part of the idea was to get some of the Blue Jays team members involved in helping these kids adjust to the community and in making them feel that they were part of the community and that they had some role models in sports persons.

So far, it is working out very well but it took nine months to a year before that group home actually opened because they spent so much time beforehand getting community support by holding community meetings to discuss how it would operate. When it finally was ready, there was very good community acceptance and support for it. This is what we need on group homes.

The new approach must include more use of parole and probation services and community service sentences. This is where the minister should be putting considerable money instead of into building new institutions. He has told us he is not planning to build new institutions and I am glad he has taken that approach, but he is renovating some institutions and taking over some vacant facilities because he has a very serious overcrowding problem. I hope he will try to overcome that overcrowding problem by these alternative programs.

Going on to the workers in correctional institutions, our prisons are only as good as the workers employed and the kind of professional services they are able to contribute, which means they need training. Prisons are labour-intensive operations. The work also calls for a degree of sensitivity to the needs of the inmates, and this should be part of the training programs. Even if the staff is well trained, its effectiveness in carrying out its job is reduced if the staffing ratios are too low; that is, there are too few staff for the number of inmates. I would like to know what the ministry is doing to try to increase staff ratios.

Another area we have to look at is that an increasing number of mentally retarded people are coming into our prisons; partly, I think, because the system cuts these people off from a lot of the services that might help them and so they end up in trouble with the law. Also, our prisons are receiving many people with psychiatric and psychological problems, or even inmates who are senile.

I know the ministry has undertaken to hire psychiatrists on a fee-for-service basis and to set up special treatment centres for some of these people, but I think there are some other steps that need to be taken. For one thing, I know psychologists are now being hired by schools for counselling, by social workers and by medical clinics to help people adjust to this world, which is often so confusing to many people. Has the minister any fee-for-service with professional psychologists or has he contemplated including them in some of the ministry's counselling services and in training programs for staff?

On the question of health hazards that are coming into the prison system, some of which are new–I am thinking in particular of acquired immune deficiency syndrome–I would like to know what training is being provided to inform staff of the facts about AIDS and the extent of any risk staff may face from inmates who may have had contact with AIDS or any risk from anybody with whom they work? This can happen to anybody.

The guards should not only be aware of what precautionary measures to take when they deal with an inmate whom they know has this kind of problem, but also should have training on how to avoid causing unnecessary panic when an AIDS case is discovered.

In one federal institution, the guards' union asked for bite-proof clothing because of an erroneous feeling that a bite is a possible means of acquiring AIDS if the prisoner had such a disease. I gather the Health ministry has denied that one can contact AIDS that way, but it just shows the extent of the panic.

1650

In other fields too, the guards need more information on how to handle inmates with communicable diseases of other kinds. I hope that is included in the minister's treatment programs, perhaps some outreach from the treatment centres to guards generally to inform them on how to deal with communicable diseases.

Finally in the health area, I would like to know what the minister is doing in response to the study of stress on prison guards made by Professor Jean Stillman at the request of the employees' union, the Ontario Public Service Employees Union. We all know that being a prison guard can be a very stressful occupation. There were some very important facts brought out in the survey by Professor Stillman. Has the minister studied this report, and what is he doing in the way of antistress training?

Before I run out of time when dealing with any ministry's estimates, I never neglect to discuss its affirmative action program. I am also concerned with the progress the ministry is making towards overcoming the underrepresentation of women and minority groups in the ministry's work force. The recent report for 1985-86 on Employment Equity for Women in the Ontario Public Service, which was issued by the women's directorate recently, shows that 30 per cent of the ministry employees are women. That is more than the Ministry of the Solicitor General had yesterday, which was 15 per cent.

Also, in the Ministry of Correctional Services women's earnings are 86 per cent of men's, which is above the provincial average of 79 per cent. The Ministry of the Solicitor General is below, so the Ministry of Correctional Services is making progress in the affirmative action program and overcoming the underrepresentation of women in the ministry.

However, there are a lot of women who are not familiar with the opportunities for a correctional guard, so I would like to know what the minister is doing to encourage more women to enter the field. This is a recent clipping from Topical of July 11, 1986, which reported on a conference held by the ministry in Ottawa. That conference discussed why there are so few women prison guards and said the main obstacle appeared to be the attitude of the male guards, and some mentioned male harassment. Those two areas should be looked at in trying to encourage more women to enter the field and to make sure that women are involved in the training programs.

I would like to spend a lot of time on young offenders, but time is running out. It is a very important area. I know we have a shortfall of spaces to accommodate young offenders in institutions or groups homes that are adapted to their particular age groups. I also know the minister is working on trying to acquire unused facilities from the Ministry of Community and Social Services.

I think one of the problems of dealing with young offenders is the division of jurisdiction. The 12-year-old to 15-year-old young offenders are under the Ministry of Community and Social Services and the 16-year-olds and 17-year-olds are under the Ministry of Correctional Services, but there are not enough facilities even for the 16-year-olds and 17-year-olds in what are strictly young offender institutions. I visited the Vanier Centre for Women last July when it was accommodating 45 young people in space that was designed for 26. I know they moved quite a lot of those people out.

It is a great tragedy if young offenders have to be put into adult male prisons, because they then come into contact with hardened criminals and do not have special programs developed for their own needs. My colleague the member for Algoma (Mr. Wildman) was asking for a detention centre for young offenders. You have to remember that a lot of young offenders who are in the prison system are simply waiting for trial. They are not out on bail, they have not been convicted of anything, but they are sometimes put in male prisons for hardened offenders.

The final area I would like to mention briefly is the question of smoking in prisons. When I visited the Vanier Centre for Women's young offenders unit, I found there was no separate smoking common room. There were 45 young people put into a common room that was supposed to house about 30 people. Some of them had to sit on the floor. The only way they could escape the smoke was to go to their rooms and be locked in until they asked to get out. Most of the rooms had double bunks. I do not think they necessarily tried to put nonsmokers together.

Also, the general question of smoking in the work place for the guards and the staff should be looked at very carefully. They are in very close contact with both the inmates and their fellow workers. We all know the hazards of secondhand smoke are now being recognized as probably being even greater than the hazards of smoking yourself.

I would like to see the minister getting on the bandwagon to end smoking in the work place. I am hoping for new directions from the minister and a switch to a philosophical approach that will try to see that imprisonment is a matter of last resort, that alternative programs are his first choice and that he will investigate as many of those as possible.

Mr. Chairman: With respect to the procedure for the balance of what might be 45 minutes and conceivably could be an hour, depending on whether the bells ring, with your permission I would like to see if we can finish off any questions from the other members who have been waiting patiently to get an opportunity to address the minister. I would like to get those questions on the floor rather quickly and with a limited amount of editorial comment. I know you have a long story to tell in some instances, but if we can keep it concise and to the point, I will get the minister to respond. I have asked the minister to

respond rather quickly if he can to the points raised by Mr. Cureatz and Ms. Bryden in their respective submissions.

Mr. Cooke, I know you have a question.

Mr. D. R. Cooke: Nine.

Mr. Chairman: You are allowed one.

Mr. D. R. Cooke: Do you want it now?

Mr. Chairman: May I have one now? I will circulate the questions.

Mr. Cureatz: That will teach you to be so nasty with me at the start.

Mr. Chairman: This is part of the price he has to pay.

Mr. Cureatz: That is right. I appreciate that, Mr. Chairman.

Mr. D. R. Cooke: I am curious about the minister's comments about treatment centres. I appreciate that an 84-bed treatment centre is being opened, the Rideau treatment centre. I see on page 10 of your address that there is total of 354 treatment beds at the maximum security treatment unit at Millbrook Correctional Centre. I am aware that there are two different units at Millbrook. In the course of my practice, I have had a number of clients who were sent to Millbrook. All of them seem to end up in the unit that has 23.5 hours of lockup plus half an hour of exercise. I hope you are not counting that as any kind of treatment.

Is there treatment at Millbrook? Are there psychiatrists or psychologists there? I have never been able to find any.

1700

Hon. Mr. Keyes: We are working on it. We do have some there. I should not say some in numbers, but they are available on the support staff. We are also reviewing the Millbrook situation as it does deal with some of our most difficult residents. That is being reviewed now to try to provide an upgraded approach of treatment for them there.

Mr. D. R. Cooke: This is a plan for the future?

Hon. Mr. Keyes: It is being increased from where we are now.

Mr. McDonald: There is a psychiatrist employed by the ministry whom we have transferred to look at eastern Ontario, which includes Millbrook and the new young offenders unit at Cobourg. There are psychologists and assistant psychologists there. We plan to hire additional psychologists and two social workers, so we can define the people who are treatable, in the broader sense, for disorders, and have a separate wing by taking people out of different wings rather than the isolation you described.

Mr. D. R. Cooke: Is the intention to phase out the isolation eventually?

Mr. McDonald: The phasing out of isolation with very problematic people may be difficult in the total population, but we intend to try.

M. Poirier: Est-ce que tout le monde me comprend? Voilà.

Hon. Mr. Keyes: This transmitter does not work.

Mr. McDonald: I can hear it in French.

Mr. Poirier: I presume the transmitter is going to be recalled by its maker. I was going to say, was it your pacemaker?

Vous me comprenez? Est-ce que tout le monde me comprend en ce moment?

Mr. McDonald: Perhaps we can indicate which channel the English translation will be on.

Hon. Mr. Keyes: Channel 1.

M. Poirier: A titre du député de la circonscription ayant le pourcentage le plus élevé de francophones de l'Ontario, et vous ayant déjà accueilli à la prison de l'Orignal avec M. McDonald, ce qui m'intéresse dans votre rapport, ici, à notre comité, ce sont les services en français que votre ministère offre, ou va offrir, aux détenus francophones, tant les hommes que les femmes. J'en serais très reconnaissant si vous pouviez nous éclairer sur cette situation-là, s'il vous plaît.

Hon. Mr. Keyes: First, in accordance with Bill 8, which necessitates provision of French services in some areas, we have been looking at the whole business of how many people we have with French-language capacity. I want to give you that figure because I have it here. I seem to have misplaced the right figure. We will give it to you. Again, we are reviewing the entire area. We will be able to take programs and adapt those that we normally use in English and use them in French.

Mr. McDonald: While the minister is checking, the work planning is to be done between now and April 1 to incorporate Bill 8 progressively and not leaving it for three years, by incorporating it over a period in about seven areas in Ontario.

Hon. Mr. Keyes: We do have a co-ordinator of French-language services, Marcel Bellemare, who is responsible for this. In our analysis, at the moment we have more than 230 French-speaking staff in the ministry in those areas that have been designated for French-language services. About

500 across the entire ministry are bilingual, and 158 of those are considered fully bilingual.

The volunteer section is an area where we have many French-speaking people, 342 volunteers, so that many of the programs can be operated by volunteers who are bilingual as well. Again, of those French-speaking volunteers, we have 250 in those same designated areas of the province.

We have been upgrading the facilities of our staff. This year we had 80 members of our staff participate in French-language training. That, I think, is an impressive figure to use as well. At the present time we are doing all of those things: the replacement of signs, the pamphlets. All our brochures are being printed in French, and our annual report, which will come out in French in the very near future, I believe, will be the first annual report in the government to be done in French. You have at the moment just the interim English version, but the other one is in the process of being printed right now.

As we develop this capacity, then we are able in certain areas–it is not so difficult in L'Orignal, for example, where you contract with the school board. Programs that are given to people there for literacy and life skills can be en français, but that will be enhanced in this planning period through Marcel Bellemare and our planning division.

Mr. Chairman: Are there other questions from any of the members other than Mr. Cureatz and Ms. Bryden at this point? If not, I will ask the minister to begin his response to the critics. Perhaps in the absence of Mr. Cureatz, who left for a moment, you can start with Ms. Bryden's questions.

Hon. Mr. Keyes: I am sure there are questions from members other than the critics who will be here, and I want to spend as much time as possible with them.

Ms. Bryden did put some very specific questions. She talked about the role of the prison auditor general as envisaged in the Canadian Campaign for Prison System Improvement. That, as you will recall, was a very major study reflecting on the entire Canadian system. We have not formed any opinion about a similar type of auditor general. It is one that we can look at in the system. Ms. Bryden, I think you were looking at trying to review whether money was spent where it was supposed to go. That is done by our own Provincial Auditor, and I believe that would be adequate.

I thought perhaps you were trying to get at another issue, and I have not read any work from that committee, but you were looking at the issue of whether we are providing the type of programs that fit the population.

Ms. Bryden: That is part of their objective, yes: that he would not only review the dollars and cents but also evaluate the programs to see whether they were reaching the goals that people who are interested in prison improvement want.

Hon. Mr. Keyes: We do that all the time ourselves, really, as we look at our planning groups. We feel that every year we have to review what we are doing, and that is why we make changes in programs, such as our literacy programs. We have studied and found a high degree of literacy absence in them. New programs are developed and a lot of volunteers work towards that. When we go into the school systems that contract with us, we have assessed the needs of these people. In some cases it may be academic upgrading; in others it may just be life skills they need. Most frequently it is life skills they need, and this is done for that purpose.

The whole review we did that determined the high number of persons coming in with some form of psychological disorder is what prompted us to look at a very large area–if you want to ask that in another question, I will touch on it–that we had to change and be sure we did treat those people in our system as they were, not just without knowing them individually. That is very significant. It is what we do with young offenders, where we work on an individual plan of program and treatment for each young offender.

1710

To jump ahead to one question on treatment, we do have psychologists both on staff and on retainer. About six weeks ago, I made an announcement of the enhanced program we have so that psychiatrists, psychologists and even to some extent psychometrists, those will who do the measuring of the capacity of the individual, will all be there either on staff or on retainer. They will then determine what type of treatment is needed for the persons and they will participate in providing some of that treatment.

Yes, they are there. We have increased the amount of spending, as I said in my notes, by 30 per cent this year over last in that one area. That comes to about $17.6 million that we will be spending in this area of treatment alone. At least 15 per cent of our inmates have some form of psychological, psychiatric or behavioural disorder.

As to those Mr. Cureatz touched on–if I might answer that at the same time–we do know that these young persons who come into our care have

multiple problems. A lot of them are mental, physical–and he mentioned the interesting one of vision. We find such things as dental problems. You would be surprised at the number of dental problems among the offender population as well. The vision one is another area, and I know some studies have been done about testing vision and finding that this may well have been part of the problem they experienced.

Ms. Bryden: Just to clarify the difference between your evaluations and those of the provincial prison auditor, it would be an independent body separate from the ministry–that is the whole idea–and it would report annually, give a report card on the operation of the system.

Hon. Mr. Keyes: Is it something like the accreditation process, perhaps, that they use for hospitals and so on?

Ms. Bryden: It could be. Some of the work could be similar.

Hon. Mr. Keyes: Looking again at our persons in professional staff, we have 62 staff members who are psychologists, 15 social workers and a large number of chaplains, 43. We have 38 classification officers who look at the people who come in and 97 recreation directors in the system. It gives a fair scope. We have gone a fair distance at the moment in the psychologist field with that number.

Mr. McDonald: There is one thing. In our system we set up an operational review team to evaluate our programs in individual institutions as well as across the ministry. From an investigatory standpoint, we have the Ombudsman in Ontario, which is a third-party process for individual problems that the federal government really does not have.

However, we are aware of the report that Ms. Bryden has referred to. We are trying to take a look at how we can evaluate ourselves in a better way, initially through the operational review process which would be available to this committee, both from the program and from the inmate treatment and rehabilitation process, which is oriented towards the program.

Ms. Bryden: The publicity you get from the annual report of the prison auditor, of course, would be quite substantial, so there would be a sudden burst of publicity, which might help to get more people interested in the prison system.

Hon. Mr. Keyes: You talk about interest, and while it was not one of your questions it goes along with exactly what we are attempting to do. As I said, we are trying to interest more people in the prison system. We do that through the very expanded communications strategy we have.

We have now completed the first basic training of many of our staff who were willing volunteers to talk about our system. We now have 150 people in our system, spread throughout all the regions in our province, who are prepared and armed with speeches and facts about our system and the direction we are going in. The film we have today is another example. We have a goal of some 800 speeches that we will give to service clubs and organizations. I gave two this week myself, at St. Catharines and Gananoque. At the end of the year we will see just what impact there will be on schools, church groups and all.

Maybe that will only scratch the surface, but we believe it will at least get people talking more about what we are trying to do in the Ministry of Correctional Services. We hope that in those 800 speeches we will reach at least 50,000 people, in that area.

To come back to your other question on group homes, I know we have somewhat of a problem there. Rather than legislate that municipalities must have group homes, we are more inclined to use other methods. There is nothing that irritates municipal councillors more than having passed, at a provincial level, bylaws that impact on the municipalities' ability to determine land use.

What we have at the moment is an interministerial committee with the mandate of supportive community living. We have representatives from the Ministry of Health, the Ministry of Community and Social Services, the Ministry of Housing, the Ministry of Municipal Affairs and the group homes co-ordinator in the Ministry of Correctional Services. We are looking at all the existing group home polices.

A very fine booklet was put out by the previous administration on group home policy. That is one that has been reasonably well adhered to, but we must admit that if you adhere to it 100 per cent you sometimes run into some difficulties in neighbourhoods. As soon as you start going out and talking about group homes, suddenly the house you were looking at gets purchased by the neighbours who did not want a group home in their area. We found that this happened with one just last week, where the people got so incensed when they thought they might have a group home that they rushed out and bought the property. It was a wealthy neighbourhood, obviously, to put up $250,000 to buy the home rather than have a group home there.

We are trying to work with municipalities. That is our whole communication strategy. We

are trying to talk to them about their responsibility as communities towards these offenders in society, and we try to get them to look at their policy. We had one other town that, within one day of knowing we were going to establish a group home, rushed out and changed its municipal bylaw, just as quickly as that. There were three readings all the same day.

We do not try to go to court to challenge those situations, but we could and we would have good grounds to do so. We try to take it that we must work on a form of encouragement to communities. We have been able to open a fair number of open-custody facilities for young offenders this year. I appreciate that you were able to get to the Blue Jays Lodge when I was not able to, but we opened up two of the others in Toronto, places such as Glendonwynne House, which was originally controversial in its establishment but then was very effective.

One of the things I have encouraged very strongly is that we have community liaison committees established wherever we try to bring in one of these group homes. Even if it is a private board of directors that runs it, we try to insist that it should have a community liaison person who can come in and be part of a support system for that home. The liaison person can be aware of the type of people coming in and can see the type of programs young people are doing. Quite often they become heavily involved in the operation of the facilities.

At the moment, we do not really feel—it is hard to say what the interministerial committee will say when its report comes out about supportive community living, but I think we will see that it is much better to work with positive encouragement than to try to hit them with a hammer saying: "You must have it; we will put in legislation."

Ms. Bryden: However, you realize that there is a cost of delay in putting in group homes. It costs the ministry much more to incarcerate people, and there is a cost in the lives of the people who would benefit from that group home and who would become productive members. The gradual approach is throwing away a lot of advantages.

Mr. Cureatz: I am always a great admirer of Ms. Bryden in terms of her special concerns about the allocation of time, and I am very appreciative of her bringing that to the committee's attention. But now I notice that, adept as she is at the parliamentary process—she has many more years than I do here—she is now cutely putting forward particular questions as the minister is trying to relate to the concerns of her opening statement. I wonder when I might have the opportunity to bring forward one or two other concerns I have.

Hon. Mr. Keyes: I would be glad if you interjected with them at any time, but it is up to the chairman.

Mr. Chairman: I did not know you were upset, Mr. Cureatz. I will certainly try to correct that situation. I do not think it is appropriate that I chastise Ms. Bryden at this point. I was very interested in the line of questioning she had, but to be completely neutral, I will turn to Mr. Sheppard.

Mr. Sheppard: Thank you. I would like to ask a question about Cobourg. On page 6 you state, "Long-range plans call for the creation of permanent, secure detention." Can you elaborate on the Cobourg situation?

1720

Hon. Mr. Keyes: I would be glad to do so, but perhaps I will give it to Mr. McDonald to give it to you at first hand. He can give you exactly what we are spending and what we are doing in upgrading it completely.

Mr. Sheppard: Good. That is fine.

Mr. McDonald: Basically, in Cobourg we are taking over three facilities from the Ministry of Community and Social Services: Sprucedale School at Simcoe, Brookside Youth Centre at Cobourg and Cecil Facer Youth Centre at Sudbury.

The capacity at Cobourg will be 111 beds: 36 detention beds and 75 secure custody beds. They are operating in two blocks now, one being the main block across the street from the school. The school will be rebuilt in the middle of the main block, with security fencing around it, and the upgrading of the six cottages inside that one block.

The renovations are going on now. The internal cottages will be approximately 90 per cent renovated by April 1. We will be operating at least four of the six cottages at that time, and by the late spring of this year it will be fully operational.

The Ministry of Community and Social Services will still have some children in one or two of the cottages until its facilities in eastern Ontario are appropriately located. The intention is to increase our secure custody capacity to 90 beds at Sprucedale, 111 beds at Brookside and more than 120 beds at Cecil Facer in northern Ontario.

The cost at Brookside at present is a little more than $1 million in renovations that are going on now. At the moment, we do not have the estimate of the cost of putting the recreation facility and the school on the main block, but it will be $850,000 to $900,000. There will be a gym and a school facility adjacent to the present cottages and administration building.

Mr. Sheppard: Would the children be between the ages of 15 and 18?

Mr. McDonald: They will be mostly 16-year-olds and 17-year-olds, but initially there will be some children who are 15 or very large 14-year-olds. With the Young Offenders Act, the courts have now available to them open custody disposition. The courts make the disposition, and many of the judges in the courts are giving the younger people open custody dispositions rather than putting them in training schools. That is the reason the counts have gone down in training schools.

We had 550 16-year-olds and 17-year-olds incarcerated under the adult system. We have about the same number incarcerated now, or we are getting close to it; but a lot of the open custody dispositions used to be probation orders among the 16-year-olds or 17-year-olds, and the judges are giving them a little more care by having a disposition of an order to reside or open custody. Some will probably be there until December, and then they will all be 16-year-olds and 17-year-olds.

Mr. Sheppard: There will be a complete change of personnel in regard to the boys who will be there from when it was under the boys' training school or the Ministry of Community and Social Services and when it goes over to the Ministry of Correctional Services.

Mr. McDonald: We will be using the same staff. The youth workers who are there, the kitchen help and so on will be the same. We will augment that with two psychologists, two social workers and a fee-for-service contract with a psychiatrist so that we can incorporate in our custody a multidisciplinary approach to the treatment and rehabilitation of young offenders.

Mr. Sheppard: Will a few more jobs be applied to what we will call the Cobourg correctional service?

Mr. McDonald: Yes. It will be the Brookside Youth Centre. I am not sure how many, but there will be more jobs. The capacity that the Ministry of Community and Social Services had was 68, although they had only 34 in residence. We are going up to 111, so there probably will be 30 more jobs.

Hon. Mr. Keyes: I would like to help out your area with more dollars for your community.

Mr. Chairman: In rotation, we will take Mr. Cureatz, Mr. Cooke and then go back to Ms. Bryden.

Mr. Cureatz: Mr. Chairman, I do not know what our timing is; I guess you do not know yet either. I am cognizant of the concerns you had about time. I have three questions I would like to get on the record, but I will go in rotation and I hope you will be–

Mr. Chairman: That is fair of you, Mr. Cureatz. I appreciate that.

Mr. Cureatz: I have had the opportunity to serve in that particular esteemed position in a past incarnation. Of course, you were elevated to loftier positions than I was, and earlier in my career.

Mr. Chairman: There is a reason for that, but I will not go into it.

Mr. Cureatz: I could never understand what it was nor could an awful lot of other people.

Mr. Chairman: I will take a moment and explain it to you.

Mr. Cureatz: That is all it would take, a moment.

Mr. Chairman: One of the things I did was get right to my questions.

Mr. Cureatz: Referring to part of my opening statement, I have a long list of questions, but I will capsulize as briefly as possible. I alluded to a program TVOntario had, more specifically a Dr. Lynden Smith who appeared on TVOntario and whom I had some correspondence with. Perhaps you would allow me a minute and a half for my questioning and then respond at a later time.

In the briefing book I quoted earlier, the senior medical adviser is described as being responsible for dietetics, nutrition, etc. Does this quotation refer to the literature coming out of the US making a connection between offenders' eating habits and their behaviour? Is the ministry following up on those kinds of connections? If so, has the ministry looked into research done in the correctional institutions in such states as Alabama, and north and south California and the Virginia Department of Corrections?

More specifically, if I can quote from page 37 of one of the reports we were able to get from Dr. Lynden Smith, in the summary, very briefly, it says: "In order to test the hypothesis that a low sugar diet can lead to a reduction in anti-social

behaviour among incarcerated juveniles, a quasi-experimental, double blind design was employed."

It continues, and the nub of it is: "The percentage of very well-behaved, incarcerated juveniles increased 71 per cent from the 31 per cent of the population to 53 per cent of the population. The percentage of offenders who were getting into trouble more than every three days, the chronic anti-social behaviour group, declined 56 per cent from 36 per cent of the population to 16 per cent of the population." The point is there should be a closer monitoring of food intake and nutrition.

Hon. Mr. Keyes: What the system does in that regard is we have dieticians who work in our ministry. The diets that people enjoy in our institutions is probably superior to what most of them were enjoying prior to coming to us. Once again, looking at many of the youthful people who come to our attention, they may be coming from situations and environments where the diets were not closely monitored. These diets are closely monitored. That is one of the things I always do, ask to see the menus. They are posted on a two-week basis in each institution. They are reviewed annually by dieticians. There is a great balance of appropriate meat, vegetables and a lot of fresh fruit.

Mr. Cureatz: I get the point. A supplementary would be, has the ministry undertaken such examinations? If they have not, would they do a comparative study?

Mr. McDonald: We have not taken a comparative study. We have taken a look at some of the documentation. There is evidence that certain types of food given to allergic people or people who are hypertensive or people who are more violent can put them off, just as some people with arthritis have a reaction if they eat certain types of acidic foods. We have not done an in-depth, blind study. We are taking a general look at the diet, though, and what this means in the longer term. We would be happy to have some separate conversations if some of the committee would like to come out to Metro West. We might be able to give a presentation on it.

Hon. Mr. Keyes: We also have Dr. Humphries here today. If there are any questions, he is in charge of our newly expanded facilities of treatment.

Mr. Cureatz: I have other questions, Mr. Chairman, but I will try to live up to your judicious approach.

Mr. Chairman: Thank you. Most sensitive of you to look at the whole issue in that light. It is appreciated. I will go to Mr. Cooke next.

Mr. D. R. Cooke: The second of my nine questions has to do with the integration of community and institutional services and exactly what you mean by that. When you speak of community services, are you including the probation service, the parole service, nongovernmental organizations?

Mr. McDonald: That provide community services.

Mr. D. R. Cooke: That provide community services. Are there nongovernmental organizations that provide institutional services?

1730

Hon. Mr. Keyes: No.

Mr. D. R. Cooke: Where does that fit into the budget?

Mr. McDonald: At the top of page 52 on operations, you will notice in the left-hand column a figure, fourth down, $60,800,000 for community services. As you go across, you see an increase of $13.5 million over and above the $47.3 million that was in the estimates of 1985-86. That is approximately a 28.6 per cent increase in the community side of the business as compared to about 15.3 per cent in the institutional side. The institutional side is the $225 million as against the $195 million.

Mr. D. R. Cooke: All right. That is an admirable increase in percentage but it is still a very small percentage of the total expenditures of the ministry.

Mr. McDonald: If you look at the bottom of the page, the caption on the $47 million captures what those total dollars are for. A lot of the community dollars within the $13.5 million are captured in the Young Offenders Act. About $11.3 million out of the $13 million is YOA, which is secure open custody, open custody, probation and other kinds of programs. The basic thrust of the ministry over the past 15 months has been to bring on open-custody community facilities for young offenders.

In the long term of five to seven years, we are looking at bringing on some 720 community residential beds for adults as well as myriad treatment programs, such as family violence, literacy and otherwise. We could not handle more in the communities where we are finding considerable resistance to community programs in the YOA. In 1987, 1988 and 1989, we are looking forward to bringing on the adult community side of community corrections.

Mr. D. R. Cooke: I am a little concerned by Ms. Bryden's suggestion that group homes should be in semi-industrial areas. I live about a block from a community resource centre, which not only does not present any problems to our neighbourhood but also probably had more money spent on renovations than any other home in our neighbourhood. I compliment the ministry for that. It has upgraded the neighbourhood.

Mr. Chairman: Is that a reflection on your neighbourhood?

Mr. D. R. Cooke: Conceivably, although I do not call us semi-industrial.

Mr. Cureatz: Noticing your performance, I agree with that.

Hon. Mr. Keyes: Over the entire province, you will see they have–

Mr. D. R. Cooke: In any event, looking at these figures on page 52, how much of this money is going to be built into the structure and how much of it is going to be available for nongovernmental organizations? I am thinking particularly of the problem of staffing NGOs and the fact that their salaries tend to be considerably lower than the salaries of your employees. They do not have the benefits that civil servants have, and for that reason there is a tendency to have good people who are very well motivated coming into NGOs only to find they are eventually being bought off by the ministry. Is there not a way in which we can fund NGOs sufficiently so they have moneys to keep their own staff?

Hon. Mr. Keyes: We contract with the NGOs every year on the basis of a per diem rate for the service they provide. If they have an inclination to increase the payment to their staff, that is going to be reflected in what they charge as their per diem rate rather than us ever having grant money going out straight to them for staffing.

Mr. D. R. Cooke: It is a unilateral contract. You decide how much they receive.

Hon. Mr. Keyes: Yes.

Mr. McDonald: In conjunction with the executive director or the volunteer board of directors, we decide the per diem cost to handle looking after eight, 12 or 15 people. Historically, the per diem costs have gone up according to inflation and/or increase or extension of programs. The catch-up you are referring to is beginning to happen with respect to fringe benefits for these people, mostly in the payment of the Ontario health insurance plan and some accident benefits.

There is a relationship difference between community resource centres and young offenders units in general across the province as to those fringe benefits encapsulated in the per diem costs for which the board of directors will sell us a service. We are pretty cognizant of that and we are trying over the long term to incorporate certain changes in that process.

Mr. Chairman: I know you want to pursue that, but could I move on, Mr. Cooke? I will get back to you. I want to go to Ms. Bryden.

Ms. Bryden: I want to correct the impression I may have given Mr. Cooke that I was suggesting group homes for industrial areas only. It was only halfway houses for sexual offenders or for people convicted of violent crimes. I know it is very difficult to accommodate those people in halfway houses, but you have to have some means of rehabilitating them. Rural areas are another possibility. I do not think residential neighbourhoods are appropriate for those kinds of homes. They are the ones that produce the most community objection. Why get the communities all roused up about that kind of halfway house when some alternative arrangements could be made.

One of the other questions I would like the minister to deal with briefly is the question of smoking in the work place, in institutions, protecting inmates, people awaiting bail, or rather trial–probably people awaiting bail too, if they can get it–and providing smoke-free areas for employees, as well as for the recreational services carried on in the institutions.

Hon. Mr. Keyes: The whole issue of smoking in institutions is a very important one to be looked at, and quite a difficult one. Life in an institution is not the same as life in the working office environment because of the stresses they are under as individuals, and likewise with regard to work there, as you have already referred to.

We have a committee that has been looking very seriously at smoking. We are pleased that the Minister of Health has drawn extra emphasis to it in his remarks last week dealing with such things as you are raising. I was looking at an institution this week in the Niagara region and wondering if there is some validity to attempt, in some places, to keep one dormitory as the smoke-free dormitory. That may or may not work, but if you keep a philosophy, you might get towards it. What happens is that if you get overcrowding, you would have too many in one and not enough in the other, so you have to be very careful. It cannot be that rigid.

Such things as providing an opportunity for staff to do their smoking away from the working

site so that they may take a smoke break would mean other people will have to cover for them at that time; or they might use an area that is more private and away from the general corridors. We do know that it is one aspect, but there are other issues as well in the whole business of smoking in the young offenders facilities.

We are reviewing it with the committee right at the moment. We are cognizant of the need for improved attitudes towards smoking. I reiterate that the style of life of the correctional officers and all staff working under them, and of those who are residents is so vastly different from the one those of us here enjoy, that to take the suggestion that has been given to me and automatically ban smoking in the institution, you just could not do that. You would end up with riots on your hands. However, you have not suggested banning it or anything of that nature. Our committee is looking very seriously at how we can improve the whole situation of attitudes towards smoking.

Mr. Cureatz: I appreciate the opportunity to pursue the line of questioning I have. Mr. Chairman, without me telling you your job, I notice the time left, and it appears to me that upon the conclusion of this immediate question, we would each be allowed a further five minutes in the natural course of rotation.

I am disappointed in Mr. Cooke. I am surprised he had a list of questions. It is obvious he does not yet know the political process. In terms of the critic's position, we have always looked upon this time as the opportunity for us to question the minister.

1740

Mr. D. R. Cooke: On a point of order, Mr. Chairman–

Mr. Cureatz: He always has the obligation of discussing his long list of questions in caucus with the minister. I can appreciate, though, as a new member, possibly he does not understand the process.

Mr. D. R. Cooke: On a point of order, Mr. Chairman–

Mr. Chairman: I know that Mr. Cooke wants desperately to respond to those comments, so I will let him have a quick opportunity. If we keep debating this, we may not complete this.

Mr. D. R. Cooke: We may never get to the rest of my questions. It is obvious that the official opposition critic came here today unprepared. He has been ragging the puck. It is usually the function of government members to rag the puck, but for some strange reason it is the opposition trying to avoid the sensitive questions that could be asked of the ministry here. I do not understand why. I want to make it clear that I have these questions here. I have waited sensitively and carefully. I tried to listen to both Mr. Cureatz and Ms. Bryden. They both brought up all kinds of irrelevancies. They have been waiting for six o'clock to come. As a Liberal, I should be delighted, but I think some of these questions need to be asked. You go ahead and ask your irrelevant–

Mr. Cureatz: You are not the chair. Mr. Chairman, may I ask my question?

Mr. Chairman: Do you want to determine in advance whether it is a relevant or irrelevant question?

Mr. Cureatz: It is neither your position to decide nor Mr. Cooke's. I want to bring to the minister's attention a brochure introducing John and Judy Shultz, missionaries serving with Shantymen's Christian Association in Cambridge, Ontario. They have brought this to my attention in terms of the ministry's position of funding not the traditional groups to which we may be accustomed, be it the Elizabeth Fry Society, which I have had the opportunity to visit, the John Howard Society, which I have had the opportunity of visiting; and, no doubt, Mr. Cooke has also taken the opportunity of visiting the Salvation Army in Toronto in terms of his concern.

Mr. Chairman: Could we leave Mr. Cooke out of this? I will ask Mr. Cooke to leave Mr. Cureatz out of his remarks, as well.

Mr. Cureatz: In any event, I want to ask the minister about the extension of funding of a local nature. I was impressed with the concerns of group homes, with which I have had some problems in my riding. Perhaps we all have had problems. There may be an alleviation of the problem by breaking that group home into a smaller area in terms of those individuals who would accept inmates on a parolee basis within their own homes. There are people who want to do that, and it would alleviate the concerns of stigma on a particular home in the area, as opposed to one or two inmates who would be living with well-established people in a community.

Mr. Chairman: It sounds like a very relevant question, just as a personal aside.

Hon. Mr. Keyes: Very definitely. I made reference to something similar to that, but not in quite the same context. We talked about, in my comments, family-assisted and band homes.

This type of thing would be done in more remote northern areas, where it is much more difficult to establish that type of facility. We will be experimenting with a number of them where the young offender will live in with a family, which will be paid a per diem rate for looking after that person. We have not yet experimented with that in the Metro areas of the large urban centres.

Mr. Cureatz: What about other than young offenders? Have you a program or funding for that?

Mr. McDonald: We are taking a look at it, but we wanted to do it with the young offenders first to see the mechanics. We wanted to see how compatible it was, how successful it was and the enthusiasm of people, whether it would wane after two or three months. We wanted to do it with the young people first and them move onwards.

Mr. D. R. Cooke: I will ask the parochial question now. I am not necessarily endorsing all the ministry's suggested plans for secure detention facilities. I note you are providing 230 secure detention beds and it seems the largest metropolitan area in the province not going to be serviced is Kitchener-Waterloo.

I notice you are opening them in Guelph. I notice, as well, although you did not mention this, that the probation office in Cambridge which normally reports to Kitchener is now being transferred to Guelph. I am wondering what the reasoning is behind that. Has consideration been given to the problem that may occur with young offenders in Kitchener-Waterloo not having secure detention facilities in the city?

Hon. Mr. Keyes: We have located those, as you know, on a regional basis and we have not been able to provide those secure facilities in every community where we would like them. However, as we look over the map, in the population areas where they are located on a regional basis we have tried to be sure to meet the needs of several communities as best we can.

Mr. D. R. Cooke: I am thinking of a situation where a young offender gets carted off to Guelph and the family may find it inconvenient or impossible to get to Guelph because of transportation problems.

Mr. McDonald: The problem we have is that with eight million people and all the communities, we had to pick centres where we had property and land accessible to the Ontario Provincial Police and local police. The Wellington Detention Centre and all lands around it were available for us to build the addition, but separate and apart from the adult situation.

We believe, however, that the courts in general move the young people out more quickly where they have a parental situation, but less quickly when they are by themselves or on the street because of the problems they have. Most of the judiciary are trying to move them out rather than keep them on remand. We have a lot of young people out awaiting trial. We have only 236 of these places. If everyone was in, we would probably need to have 800.

Mr. D. R. Cooke: What about the probation office in Cambridge reporting to Guelph? Why would that be taken out of the region of Waterloo?

Mr. McDonald: Offhand, I would have to inquire. I do not remember that. I thought the Cambridge probation office reported to the office in Kitchener. I think it still does.

Mr. D. R. Cooke: I understood that was in the process of change.

Mr. McDonald: I do not believe so but I could check that and give you the information privately. I believe it is still in Kitchener.

Ms. Bryden: There is one sentence in the minister's report that alarmed me a bit, although he did definitely close the door on the idea. He referred to the possibility of monitoring the activities of inmates who are out on day-care programs through electronic monitoring. I understand that means they would possibly wear a bracelet that would have a radio beep connected to it, similar to those they attach to animals when trying to monitor their activities in wildlife studies, or it may be a different idea.

I am not sure what has been proposed, but I welcome his very definite rejection of the idea or his definite statement that he would have to look into both the ethical and practical implications as something that must be explored in considerable depth. I think it could be an invasion of human rights and it could give the inmates a sense of not being regarded as human beings who could be responsible when they got a day pass.

Hon. Mr. Keyes: We are very sensitive and careful about this issue. It has been tried in the United States. You will notice it was talked about in the press in the past week as being tried in the federal system, but as of last week it has also been withdrawn for the very reasons we are talking about, such as the consideration and concern for individual rights and potential challenge and so on.

In a very small way, we have looked at trying to experiment with some person on a voluntary basis–it would not be forced on anyone whatsoever–to see whether there is merit in looking at this as a means of cutting down on the number of persons who act as correctional officers. It could have merit where you have an attendance centre such as a halfway house.

We want to look at it in a very small way. We are not going to be inflammatory about it if enough people convince us it is not even worth an experiment, but we have looked at what is happening in the US. It is my impression that there may be some people in our system of offenders who would be quite willing to be involved with such an experiment because of the additional freedom it could very well give them.

1750

Mr. McDonald: The other thing is that we have a lot of intermittent sentencing in Toronto where they come in Friday night till Sunday night and they serve their sentence out over 50 weeks on the weekends. There is some thought of collapsing that sentencing pattern into three or four months in a group home facility, being monitored and still going to their tool and die job and working. They are paying their debt to society on that basis.

We think that has a great advantage for us and for the offender in that we keep almost 200 beds at Mimico vacant during the week to accommodate 200 people coming in on the weekend. Half of them are in some condition that we do not like to have to take on, because they come in inebriated and so on. They suffer by that because they get their sentence extended. We would rather have a controlled experiment where 12 people could stay together, go to work and be monitored and have probation officers call on them regularly and have some supervision. We would like to test it anyway.

Ms. Bryden: That might not necessarily be electronic monitoring. That would just be the group home set up acting as the monitor.

Mr. McDonald: We would like the electronic monitoring as a self-disciplinary process to give them greater freedom than having someone look over their shoulders. If they have to come in at 6:30, they do not want someone there to have to tell them they have to be there. We just want to be able to check that they are. We believe they will be more self-disciplined in the long run.

Hon. Mr. Keyes: It is done very cautiously.

Ms. Bryden: It is a bit scary.

Hon. Mr. Keyes: It is.

Mr. Cureatz: I appreciate the opportunity of proceeding with the line of questioning I established with my opening remarks. More particularly, I want to bring to the minister's attention an article headed, "New Law Blamed for More Youths Returning to Crime." I do not know whether you had the opportunity of reading that.

Taking a look at the briefing book on page 5, the ministry appears to have two centrepieces: community-based programs and the Young Offenders Implementation Act. It was disturbing to read in a report filed by Tracey Tyler of Kitchener to the Toronto Star that "a study of the family court clinic in Ontario has found the return to crime has jumped 55 per cent among youths aged 12 to 15 who are considered by a doctor to be emotionally or mentally disturbed."

The standing committee on social development had the opportunity of visiting that centre in London prior to the last election. We were quite impressed with the job they are doing there. The problem is that under the Young Offenders Act youths can refuse medical treatment. The ministry staff sees this as a serious slipup in the act. What action has the ministry taken to initiate corrective action? With reference to the minister's statement in the Legislature in October 1986, is the value of expanded treatment services not curtailed severely if young offenders can refuse treatment?

Hon. Mr. Keyes: Most young offenders aged 12 to 15 are being dealt with by the Ministry of Community and Social Services. We have had some discussion with the federal government with regard to that right of refusal.

Mr. McDonald: Medical treatment for a child under 16 is the responsibility of the guardian or the parent of that child. There is recourse towards the parent for medical services if the child refuses that service. That happens a lot in the children's aid societies as well as the juvenile correction system. Over 16 years of age, that becomes a different thing for us in that they are adults, kind of, and deemed to have that right. We do not have a lot of problems with people refusing necessary treatment. Some people may get upset with it, but they do not usually refuse it if they have a life-threatening situation.

Mr. Cureatz: Mr. Chairman, may I ask another question?

Mr. Chairman: Is it related to the one you just asked?

Mr. Cureatz: No, it is not.

Mr. Chairman: Then in fairness I will have to continue the rotation. I believe Mr. Poirier had a question. I am passing you at this time, Mr. Cooke, in deference to your colleague.

Mr. D. R. Cooke: I understand.

Mr. Poirier: I will ask this one in English. I do well with my second language.

We have seen the federal government decide to put a detention centre in Baie Comeau, which is very far away, where people might find it very difficult to go and visit inmates. On the local issue, where inmates have a chance to serve their time locally, can you comment on how that will affect the local members and tell us whether the Ontario government has a policy on that?

Hon. Mr. Keyes: Just to elaborate slightly on the policy, we try to keep them locally for up to 124 days of sentence. If you are sentenced for 124 days, you can expect to spend it locally.

Mr. Poirier: There is no great movement of inmates to other areas of Ontario where family members might find it difficult to visit them?

Hon. Mr. Keyes: No. You will find some with longer sentences who have to be moved to other secure custodies, if you are not into two years less a day, but the majority of our people are sentenced to much less than that. On the average stay of our people in institutions, I think the statistic for last year works out to be about 72 days. With that as the average length of stay, we try to keep at a local level anyone who has a sentence of up to 124 days.

Mr. McDonald: We have 17 per cent at eight days, under 21 per cent at 15 days, 10 per cent at 30 days and under, about 22 per cent at 89 days and under and 11 per cent at three to six months. Most people serve their sentence in one of the 36 smaller local centres across the province.

Hon. Mr. Keyes: More than 70 per cent of the sentences are under 89 days.

Mr. Poirier: These local services are all equipped to be able to give the identical services to inmates across Ontario, in a general sense?

Mr. McDonald: In a general sense but not in a specific sense, in that if you had to treat somebody for six to nine months and the judge gave him only three months you would not be able to do it. If someone was illiterate and serving a 14-day sentence, you would never be able to do very much for him. If he gets 90 days and gets into a program, you can then spin him out, we hope, to a community program at a later date. The short-term sentences have a disadvantage if they have severe problems.

Mr. Poirier: Talking about services, do you have illiteracy programs in all the local jails?

Hon. Mr. Keyes: A lot of them operate through volunteers.

Mr. McDonald: In most of the local jails, volunteers help them with reading, but if someone is totally illiterate, then there is a problem if you have a short-term sentence, as there is for any kind of problem.

Mr. Chairman: Our time has just about expired, so I think we had better get on with the vote. The bells will ring very shortly and we will probably not have time to get in another question.

I would like to thank the minister, his staff and also the members of committee for two and a half hours of–

Mr. Cureatz: Do we not have time for one small inquiry?

Mr. Chairman: All right. If it is so pressing and urgent, I will set aside what I was about to say and cede the time to you.

Mr. Cureatz: Thank you very much. In reference to my continued concerns in monitoring health problems for those inmates entering an institution, I was looking at that in terms of a global picture. More specifically, in recent times we have become more concerned about social diseases, particularly acquired immune deficiency syndrome, in the community and particularly in our institutions. If time does not permit, possibly the minister or the deputy can respond to me in writing about the approach the ministry is taking in terms of monitoring that problem of protection to the guards and other inmates.

Hon. Mr. Keyes: I brought Dr. Humphries today to speak on that. Had our time not been so constrained, he was going to go through all the procedures for you. We just gave Ms. Bryden a copy of the booklet on AIDS which our ministry produced after consultation with the union and the Ministry of Health. It has been recognized as a worthwhile, meaningful one, and we will be glad to give you more detail. We monitor a lot of work going on in the process. Perhaps you can give 30 seconds to Dr. Humphries to explain some of the things that are done to alleviate the concerns of our correctional officers.

Dr. Humphries: We run into the difficult situation that philosophical differences come together. On the one hand, we have the Minister of Health saying an individual with this problem can be within the community, working in a kitchen, going to university, etc. On the other

hand, we have an individual who can create problems by biting, spitting and all of those kinds of things. When the problem began to present itself, very early on, we prepared that book in co-operation with the union. It was sent out to every member of staff, to their home address.

From an administrative and union point of view, it addressed every one of the problems we could possibly anticipate. If we have had any criticisms, it is because we have been overly cautious rather than less cautious, but we justify that by saying you do not have people running around the hospital biting other people, as they could do in our system.

We have a problem as far as our cardiopulmonary resuscitation training is concerned because they all use the ResusciAnne and they started looking at each other like, "Ha ha. Where were you last week?" We came up with this particular mask, which is rather unique. The request was they wanted something deep because quite often you get vomitus. They wanted something with a one-way valve and something that could be cleaned or thrown away. That is what we came up with. It is a Flynn-3 mask . It just goes over like so. It is deep. This is a one-way valve and these are dispensable mouthpieces costing 25 cents apiece. So you use them, throw them away and buy another 1,000.

We sort of criss-crossed this ongoing problem with our training officers, training them with our head nurses and with our superintendents. At present, I am a member of the committee set up and chaired by Dr. Barbara Blake, director of the public health division branch of the Ministry of Health, where we address on a regular basis what the present status of this problem is and then we share it with our staff.

The Ontario Public Education Panel on AIDS is the public distribution point for information. We have had meetings with them, the union and ourselves to encourage them to produce a new publication that would go out to all of our staff and could be called AIDS in Corrections. That is a quick overview of our approach.

Mr. Chairman: Thank you, doctor.

Mr. Cureatz: Thank you, Mr. Chairman, for allowing me that opportunity.

Mr. Chairman: You are very welcome. The chair is always more than willing to co-operate whenever it is possible with the members of the committee. We attempt to extend every courtesy to those members, but there are occasions when it is difficult, I want you to know that.

Mr. Cureatz: Yes, I understand that. I know this particular session was trying for you. I appreciate the manner in which you handled yourself. I congratulate you, your staff and of course the minister and the deputy in making available some of the answers to the questions I had pursued.

Mr. Chairman: Thank you, sir.

Ms. Bryden: I would like to echo those remarks. I think you have done very well.

Mr. Chairman: I am going to call the votes now, with the agreement of the members of the committee.

Votes 1301 and 1302 agreed to.

Mr. Chairman: Shall I report these estimates to the House? Agreed. They will be reported tomorrow.

The committee adjourned at 6:02 p.m.

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Ontario

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Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney-General

Second Session, 33rd Parliament
Monday, January 26, 1987

Speaker: Honourable H. A. Edighoffer
Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, January 26, 1987

The committee met at 3:45 p.m. in room 228.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

Mr. Chairman: There are representatives from all three parties; so we can get under way.

I will be calling vote 1101. The schedule for us to follow, which is rather common in these committees, is for the minister to make an opening statement, followed by statements from the official opposition and the third party. I want all the members of the committee to know that with respect to the allocation of hours, I will make every effort to be as fair and evenhanded as possible. I will be watching the clock to make sure no one party or no one member dominates the questions to the Attorney General (Mr. Scott), knowing how eager all of you are to ask questions of the Attorney General. You will have to restrain your enthusiasm on occasion and rely on the chairman's goodwill insofar as the time allocation for those particular questions is concerned.

With those brief opening remarks, I will turn the committee over to the Attorney General now, and he can begin his statement.

Hon. Mr. Scott: Thank you. It seems like no time at all since I was sitting before you delivering my first estimates speech, which you will find a modest endeavour compared to this year's maximum opus. It is a pleasure to be here again, to note how quickly time has passed and to note the number of important lessons I have learned at the hands of each of my critics over the past 20 months in my new role as Attorney General for Ontario. It is also a pleasure to see so many interested members of the general public who have come today to hear the estimates speech–

Mr. Chairman: Could they put up their hands, the members of the general public?

Hon. Mr. Scott: –and to participate in this open, consultative process. It is a pleasure to discuss the programs and the initiatives of the ministry for 1986-1987.

Before I begin to deal with the specific issues and initiatives, Mr. Chairman, I hope you will permit me to remind you that I am not only the chief law officer of the crown but the minister responsible for women's issues and native affairs as well. These roles define quite separate responsibilities for me, but in one larger context they have the same aim: the fair administration of justice in the province. We must never lose sight of that goal, for we are administering a highly complex justice system which must continue to deliver justice swiftly and fairly if it is to maintain public respect and play its important part in the maintenance of our social fabric.

In my remarks today I would like to focus on the issues which I believe to be of importance to the administration of justice in the province. To this end, I will also tell you of the initiatives launched in the past year. I welcome the suggestions and remarks of my colleagues, and I know that there are a number of areas of interest that members of the committee will wish to discuss.

It is of great importance to me, both personally and professionally, that our justice system continue to be fair and responsive to the needs of our fellow men and women. But today there are many realities which challenge that ideal, that concept: overcrowded court facilities, increased demands on legal officers, judiciary and administrative personnel; and the ever-increasing demands being placed on the courts as a result of constitutional and legislative changes.

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I believe that substantial changes, structural changes, are needed in our court system. The appointment of the Honourable Mr. Justice Thomas Zuber to conduct an inquiry into the organization, jurisdiction and structure of the courts, will provide us, I hope, with the groundwork upon which we can rebuild Ontario's court system.

The most recent systematic investigation of the operation of our courts was conducted over 15 years ago by the Ontario Law Reform Commission, whose present chairman, James R. Breithaupt, is here today. Since that time 15 years ago, there have been fundamental changes in our society and its laws, but none of any substance in the courts. The time has now come, I believe, for a thorough examination of our court system, which has not undergone any significant change since the courts were first established in Upper Canada nearly 200 years ago.

I want to make it clear to my colleagues here, as I did in the House, that this inquiry is not intended to be a mere tinkering with the existing system. I have requested that Judge Zuber examine all matters dealing with access to the courts by the public and the provision of service by the courts to the public. I have asked him to report to me by April 1, 1987, with his recommendations for the provision of a simpler, more convenient, more expeditious and less costly legal system.

The inquiry he undertakes could lead to the elimination of various court levels, to changes in the way evidence is taken, to the introduction of video transmissions and to changes in the legal aid system. I anticipate that the impact of Judge Zuber's report on Ontario's court system will be significant.

Je voudrais aussi souligner le sens de l'introduction de l'usage du français dans notre système judiciaire. Le droit d'utiliser la langue française devant les tribunaux et dans notre système judiciaire est désormais partie intégrante de la loi et de la toile de fond de notre province. Ce changement en vertu de la Loi sur les tribunaux judiciaires complète le droit d'accès qui existait déjà partout en Ontario dans les deux langues dans les matières tombant sous le Code criminel du Canada.

Ontario's 500,000 francophones will now have an equal opportunity to pursue legal rights in the language of their choice regardless of geographical or jurisdictional barriers. These rights were extended to all provincial offences courts earlier this month.

The commitment to enshrine the use of the French language in the courts is also reflected in the operations and statutes of the Legislature. The French Language Services Act, from which this minister can benefit so profoundly, or Bill 8, which was passed in the Legislature last November, requires provincial ministries and agencies to provide services to the public in both French and English in those areas where a significant number of French-speaking Ontarians reside. These areas are outlined in the act.

Also related to the administration of justice is the section of Bill 8 which states that all public bills of the Legislative Assembly introduced after January 1, 1991, will be introduced and enacted in both English and French. The bill also provides that the Revised Statutes of Ontario 1990 will not only be translated but will also be enacted–a much more important and significant step–in the French language.

I am proud to say that since I became Attorney General it has been my policy, carried forward I think in every instance except perhaps one, that all new statutes of my ministry are introduced and presented for enactment in both English and French, and any confusion effected by the introduction of my bills is now universal and shared by representatives of both founding races.

Mr. Chairman: Thank you for that clarification, sir.

Hon. Mr. Scott: There is no suggestion that those who cannot speak French should have any fewer rights than those who can. What we are suggesting is that for those whose mother tongue is French, they should be provided with an equal opportunity to use the French language in Ontario.

I want the members of this committee to know that the government is equally committed to improving the functional aspects of the administration of justice, such as the construction, maintenance and repair of our courthouse facilities.

At the present time, we provide courtroom space in 246 separate locations in 48 districts, including therein the Supreme Court of Ontario, the district court of Ontario, the provincial court of Ontario with its three divisions, criminal, family and civil, and the unified family court, whose members are jointly appointed as district and provincial court (family) judges.

Aside from the physical inadequacies of many premises and the burgeoning volume of court work over the last generation, long ago the increasing complexity of criminal and civil litigation made the problem of courtroom and support service space a critical one.

Since I took office as Attorney General, one of my priorities has been to establish for the first time in Ontario a strategic plan based on consistent principles by which courtroom space could be provided and maintained over the next generation. There are three basic principles included in the plan:

1. Facilities will be provided only in response to proven need.

2. The Ministry of the Attorney General is responsible for the management and administration of the court system. The assessment of need is a critical part of that responsibility.

3. Courtrooms will be utilized to the maximum extent possible; therefore, a courtroom can no longer be assigned permanently to any one particular division of the court system.

When I introduced this statement on courthouse priority in the assembly, the honourable

member for Ottawa Centre (Ms. Gigantes) was present and indicated that it seemed like a sensible list of principles to her. It is. The significant thing is that, historically, it has not been traditional in Ontario to respond to such principles in terms of courthouse construction. Much local influence has been brought to bear. There has been a long tradition of regarding courtrooms as assigned to either one or another particular division of the court, much against the efficient operation of the system as a whole.

The operating policies of these principles assist the ministry in its responsibilities to manage and administer the court system. For example, in situations of need where traditional courtroom space cannot be quickly provided, we are prepared to consider using modular portable facilities.

To develop short- and medium-term strategies, we are, for the first time, assessing the needs of our courts on a county or district basis. These judicial district profiles will take into consideration the economics, the population, the growth potential and the existing situation of the facilities in each district.

I recognize that maintaining and improving our court facilities during a period of fiscal restraint is a major challenge. However, I believe that by embarking on a strategic approach utilizing significant public and user input, and by developing a multi-year plan in which priorities are clearly established, we will be in a stronger position to manage the future cost of the development of our courts and ultimately, of course, the administration of justice in the province.

In my opinion, it is not possible to talk about the court system without discussing the role of our crown attorneys. These dedicated men and women are responsible for the prosecution of all criminal charges in the province and the handling of all criminal appeals to the Ontario Court of Appeal and to the Supreme Court of Canada. Their importance in an effective criminal justice system cannot be overstated. At the same time, it is important to note the valuable public service provided by the crown law officers who work in other parts of the ministry. Their legal advice and litigation skills are of inestimable value to the government.

As you may know, over the past several months, representatives of the Ontario Crown Attorneys' Association have been involved in discussions with representatives of my ministry concerning salaries and working conditions. In October, the government allocated $1.7 million to my ministry to fund a new agreement concerning salaries, benefits and working conditions for crown attorneys and other crown law officers.

In order to remedy the acute office accommodation problems facing crown attorneys in Toronto, we plan to move all the downtown crowns to a single location in the courthouse at 361 University Avenue. The move will cost an estimated $750,000 and should be completed by the summer. As a result of this move, each crown attorney, for the first time in many years, will have his or her own office. This action has proven to be a positive step in the process of addressing the concerns of crown attorneys. By supporting our crowns in fulfilment of their responsibilities, together we will build a stronger system for the citizens of the province.

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I know that all honourable members here today would agree with me that our system of legal aid in the province has an integral and important part to play in ensuring that the public has access to justice. I emphasize that the government and the assembly has given the legal profession a monopoly over the provision of legal services to the public because we feel that a self-regulating profession is the best way to secure an independent profession and a high standard of public service.

Legal aid, however, is a partnership between government and the legal profession. Each has obligations in that partnership. The government has acknowledged its obligations by taking steps to implement recommendations made by the fact-finder's report on legal aid presented to the government in the summer of 1985.

The Law Society of Upper Canada must also be praised for its participation in negotiating a new tariff. This agreement, under which every Ontario lawyer will contribute to the cost of legal aid, demonstrates that the law society has accepted the notion that the provision of legal aid is the responsibility of the profession as a whole. It also demonstrates, I believe, the government's willingness to assist the profession with its responsibility.

As members of the committee will recall, the legal aid tariff was increased in December 1985 by 20 per cent and by a further 27 per cent in July 1986 on bases that had remained fundamentally unchanged for over 20 years.

Correspondingly, the legal profession as a whole has assumed the responsibility of paying 50 per cent of the approximately $13 million administrative costs of the plan. This obligation

is being phased in over two years. This will mean a contribution by each lawyer of roughly $175, together with an agreed-upon reduction of five per cent from legal aid accounts. This will constitute an annual contribution by all lawyers of nearly $7 million by 1988.

This was a much-needed change to the system. For probably 15 years, Ontario's legal aid plan has been chronically underfunded. The fact-finder's report revealed that in 1985 fees paid to the legal aid lawyers were, in relative dollars, less than one half of the rates established when the plan was started in 1967. Not surprisingly, many lawyers deserted the plan, and freedom of choice of counsel was seriously eroded. At that time, the profession's contribution to legal aid fell exclusively on the shoulders of those actually doing the legal aid work.

I believe this new agreement places legal aid on a new footing in Ontario. This plan will not only renew the spirit of the lawyers who work in legal aid but, most important, it will also provide a more solid protection for the rights of those individuals whose only hope of access to justice is an effective, efficient legal aid plan.

At this time, I would also like to report that four new community legal aid clinics were established in 1986. This brings the total number of community legal aid clinics in the province up to 56. The new clinics will be located in Brantford, Willowdale and Windsor, with the fourth clinic location yet to be decided.

The subject of legal aid also inspired the Ontario branch of the Canadian Bar Association to publish a report on legal aid issues in September 1986. My ministry has examined this report and will begin discussions with the Canadian Bar Association shortly. This report demonstrates the bar association's desire to be an active participant in ensuring the delivery of an accessible justice system.

In particular, concerns were expressed in the bar association's report about legal aid for involuntary psychiatric patients, children and young persons, women and native people. In the last year, important initiatives have begun in these areas.

The legal aid plan has improved and increased access to duty counsel for persons in remote areas. The legal aid plan, along with the law society, is sponsoring a program on spousal violence, and lawyers who attend the program will be placed on a special family violence panel. In addition, a program to ensure access to legal assistance for involuntary psychiatric patients has been initiated through the combined efforts of the legal aid plan, the ministry and the Ministry of Health.

These changes mark a new beginning in the delivery of legal aid services in Ontario. They demonstrate, I believe, a new willingness on the part of the administrators of the plan to seek out areas of need and to develop effective programs to meet those needs. This is a move that I and my officials have encouraged and one that will significantly improve the delivery of legal aid.

In this connection, I have recently asked the legal aid committee to give me its views on whether the existing financial eligibility criteria are appropriate. At present, it is no exaggeration to say that legal services are available only to the very rich and the very poor. There is a significant group of middle-income earners who do not qualify for legal aid but for whom the retaining of legal services represents a real financial hardship. It has occurred to me that we might be able to counter some of that hardship by making legal aid more broadly available in the province.

Of course, this is a question fraught with financial difficulties. It is never easy to obtain additional financing for legal aid, and I do not anticipate that it will be particularly easy to obtain new money to provide legal services to those who now, one way or the other, pay for those services themselves. However, with the co-operation of the profession, it may be that a significant amount of assistance can be provided to these individuals by granting them legal aid certificates, subject to a substantial contribution on their part. In this way, middle-class earners would get the benefit of the tariff, which remains significantly below market rates for legal services. Depending on the length and complexity of the trial and their actual means, these individuals may also qualify for a public subsidy of some of their expenses.

It remains to be seen whether this idea will be of interest to the law society and the legal profession, and I certainly welcome the views of members of this committee respecting this matter.

Before leaving the subject of legal aid, I should comment briefly on the vital question of providing funding for the legal aid program. In this connection, there are three important developments that merit comment.

First, the legal aid plan has substantially increased the collection of client contributions. As members of this committee will know, some persons who receive legal aid are required to contribute to the costs of the services they receive. Through new efficiencies in the collec-

tion department, the plan has increased the actual collection of these assessed amounts by a significant figure.

Second, I wish to congratulate the Law Foundation of Ontario on the important initiative it has taken to increase the revenue from lawyers' trust accounts. At present, the law foundation is entitled to all of the interest that accrues on lawyers' mixed trust accounts. For years, the rate of interest paid by the banks was very low and was paid on the lowest monthly balance. Within the last couple of years, the foundation has worked actively and effectively with the banks to increase the rate of interest and to have interest paid on a daily basis.

As a result of these initiatives, the revenue accruing to the law foundation has doubled within the last year, even though interest rates have not in that period changed significantly. Since the legal aid plan receives 75 per cent of the income in question, the law foundation's contribution to legal aid has similarly doubled. This has proved to be particularly important in the obtaining of additional moneys from the Treasurer (Mr. Nixon) for the recent tariff increase.

Finally, I would like to comment briefly on our efforts in relation to the obtaining of cost-sharing efforts for criminal legal aid. It is the view of Ontario, shared by other provinces, that the federal government ought to pay 50 per cent of the costs of criminal legal aid services. We advance this view on the basis that although the provinces administer the legal aid plans, the federal government controls the substantive and procedural law, changes to both of which can significantly affect costs. As well, through initiatives such as the Canadian Charter of Rights and Freedoms, the federal government can increase the rights and consciousness of the people and thereby increase the demand for legal aid services. Any other arguments any members of the committee can think of will be gratefully received.

The federal government has never accepted the provincial position. Until very recently, it has insisted upon a cost-sharing formula that places an absolute ceiling on the federal contribution. The ceiling was related to changes in the gross national product rather than to changes in the costs of providing legal aid.

Through determined efforts over a number of years, we and the other provinces have been able to obtain a new cost-sharing agreement pursuant to which the provinces are guaranteed payment of at least 45 per cent of costs relating to criminal legal aid. In other words, while the formula based on the gross national product remains in effect, it is subject to an override that assures us we will receive not less than 45 per cent of the costs from the federal government. For 1985-86, we in fact received 46 per cent of our expenditures. The new arrangement expires at the end of the 1986-87 fiscal year, and we are actively seeking to extend it.

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On the civil legal aid side, we have been successful in obtaining a substantial degree of cost-sharing from the Department of National Health and Welfare. For 1986-87, we expect to receive $7 million.

Apart from the very important dollars these cost-sharing agreements provide, our initiatives in enhancing cost-sharing have helped to persuade officials in the Ministry of Treasury and Economics that we are seriously trying to control provincial expenditures in this area. These efforts have added credibility to our requests for enhanced provincial funding for this very important program. Without such efforts, I doubt we would have been able to obtain the increased provincial funding for the legal aid tariff.

All the changes and new legislation we have initiated concerning our court system illustrate this government's commitment to ensure that the justice system of this province continues to meet the real needs of those it is designed to serve.

It is with this concept of service in mind that I would like to discuss the role of paralegals in our court system. In October 1986, the Law Society of Upper Canada submitted a report recommending that the activities of paralegals should be regulated. Regulation would mean providing a list of activities that paralegals could perform for the public for a fee and prohibiting the continued provision of services in other areas. I add parenthetically that regulating in this sense would presumably also, if it stopped short of self-government of paralegals, contemplate the creation of a directorate within a ministry such as the Ministry of Consumer and Commercial Relations that would determine who could be a paralegal and who would assess the paralegals licensed to practise in the province.

The law society, in its report, has outlined four areas of acceptable activity or forums where paralegals may appear, in its opinion. Briefly, they are: minor provincial-municipal motor vehicle offences; federal-provincial labour relations matters; provincial court (civil division); and some administrative tribunals.

Paralegals providing services in these areas or forums would be required to do four things,

according to the law society: (1) train to meet minimum standards; (2) participate in continuing education; (3) be subject to supervision and discipline by the Ministry of Consumer and Commercial Relations; and (4) provide financial protection for consumers.

The government is in the course of giving these recommendations serious consideration. Essentially, what the law society is recommending is that paralegal activity should be limited by direct government licensing, as is done for mortgage brokers and real estate agents. We feel this is not the only option to consider. We might also consider legislation along the lines of Bill 42, whose learned author is present, which would see paralegals self-regulated with input from the law society; consider prohibiting all paralegal activity unless conducted under the supervision of a lawyer; or suggest that the law society's prosecutions of unauthorized practice be subject to the consent of the Attorney General.

The only unacceptable option we have is to do nothing. We expect to receive considerably more input from the legal profession before the introduction of any legislation. It is in the best interests of the legal profession, and the public, that we conduct a thorough examination of the role of the paralegal in our court system.

Still on the topic of our courts, I am sure all members here are aware of the enactment last March of the Family Law Act and its companion piece of legislation, the Support and Custody Orders Enforcement Act, so brilliantly manoeuvred through this committee by you, Mr. Chairman. These two acts reinforce the practical and ideological changes this society has already made concerning marriage and the family.

Of the 57,000 to 60,000 support orders currently filed for enforcement with the provincial family courts in Ontario, it is estimated that as many as 85 per cent are in some degree in default. This is a totally unacceptable situation, and to redress it we plan to have our support and custody enforcement program in place and operating by July. It will be automatic, free and universally accessible.

Serious problems have arisen with respect to the enforcement of access orders made by Ontario courts. These orders have become in many cases unenforceable. The inability to enforce access orders has two consequences: (1) the best interests of the child are not served, as access denial undermines the relationship between the access parent–the parent who does not live with the child–and the child; and (2) it brings the administration of justice into disrepute by frustrating an order made by the court in the best interests of a child.

In my opinion, the solution to the problem lies in improved methods of access enforcement for parents who have wrongfully been denied access to their children. I suggest to you that the guiding principle behind any new legislation will continue to be, and must continue to be, the concern for what is best for the child.

The subject of access enforcement is under active consideration within the ministry. We are considering simplifying the process under provincial law for enforcing an access order, as well as considering the inclusion of enforcement of access provisions in separation agreements. We are also considering the many submissions we have received from both legal and nonlegal groups from across the province. We anticipate preparing our proposals for introduction in the near future.

As I said earlier, I am also the minister responsible for women's issues. My work with the women of this province has proved to be both edifying and evincing. I do not know what "evincing" means; it was in here and I thought I would leave it just in case any member of the committee can assist me, but it certainly has been edifying. Let there be no doubt that women are effecting significant change, not only in this province but throughout North America as well. Marriage and the family can no longer be defined by criteria from the past. Less than seven per cent of families in North America now live in the traditional family of breadwinning father, homemaking mother and two children. The changes to the family law that I mentioned earlier reflect the changes men and women have made in each other's lives.

This government has made a commitment to change the status of women in this province, not only on a financial level but on a social one as well. In November 1986 we launched our employment equity program. The long-term goal of this program is to ensure that there is a 30 per cent female representation in every occupational category by the year 2000.

I would like to share with you some of the results we have achieved in our hiring policies within the Ministry of the Attorney General. Three areas of highest priority have been targeted by the women's directorate: (1) women in senior management; (2) women in technology-related occupations; and (3) women in the legal profession.

In this ministry there are four occupational groups with less than 30 per cent representation.

The largest representation of women is in the professional category; of the ministry's 546 lawyers, 24 per cent are women. In fact, the ministry is hiring women as entry level lawyers in a higher proportion than they are being called to the bar. In 1984, 32 per cent of the graduates called to the bar were women; 52 per cent of the entry level lawyers hired by the ministry were women. This past year, 37 per cent of the graduates were women; 40 per cent of the entry level lawyers hired were women. On average, female lawyers earn 82 per cent of male lawyers' salaries. However, this wage gap was found for the group as a whole to be the result of variations in years of experience and years employed by the ministry. We will continue to encourage the promotion of women in the work place.

As of October 1986, 71 per cent of an estimated 3,500 classified employees were women. Of these 3,500 women, 80 per cent were employed in office support positions. The other 20 per cent were in administrative occupations. At the senior management level, women hold only 12 per cent of the 52 classified positions.

These figures do not tell the whole story. Significant progress has been made over the past 10 years. Women in the ministry are being integrated into the entry and middle levels of administrative, managerial and professional occupations. The ministry will continue to focus attention on the progress of women within the legal group. The ministry will be providing lawyers with individual career counselling and course sponsorship as well as developing opportunities for female lawyers and implementing a performance appraisal system.

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In November 1986, the ministry created an office of equality rights within its policy development division. The establishment of this office reflects a growing recognition of equality rights in our justice system, and the office provides a focal point for the ministry's work in a number of related fields.

I would like to explore the concept of equality rights for a moment. Equality rights is, of course, a people issue. This government's race relations policy recognizes this principle. It recognizes that racial minorities often encounter barriers to their full participation in society. To combat this situation, the government is committed to taking strong measures to facilitate equality of treatment and opportunity for all residents of the province.

We have instituted measures to ensure that the government's youth employment and training programs develop specific strategies to address the special barriers faced by racial minority youth seeking employment.

The Ministry of Housing has recently appointed a director of race relations policies and programs for the Metro Toronto Housing Authority whose mandate is to find ways to minimize racial strife in MTHA housing projects.

In response to complaints that visible minorities are not adequately represented in the public service, in June 1986 the government conducted a survey to determine the level of representation of visible minorities in the public service. The results will soon be available and will be released. We are also examining our recruitment, hiring and promotion practices to ensure we are not contributing to systemic discrimination.

It is the responsibility of government to take action to end all forms of discrimination, and we will continue in this task to ensure that all citizens share the right to participate in the life of this province in a meaningful way.

I carry this same responsibility with me into my portfolio as the minister responsible for native affairs. One of the basic goals of this government with respect to native people is to promote the economic and social development of native communities in the province. In my view, the goal can only be achieved by according native people greater control over matters affecting their daily lives.

My activities as minister responsible for native affairs will be reviewed in separate estimates. However, I would like to comment briefly on some of the initiatives of the Ministry of the Attorney General itself in relation to native people.

The year 1986-87 saw the completion of the third native awareness training program for crown attorneys. This program is conducted for the government by the Ontario Native Council on Justice. The third program marked the culmination of a number of years of work to develop an efficient and effective mechanism of increasing the sensitivity of justice personnel to native issues and concerns. The session was judged a considerable success by the crown attorneys who attended, and the ministry hopes to be able to repeat the program on an as-needed basis.

Progress continues to be made with the Ontario native justices of the peace program. Through the program, we have increased the number of full-time native justices of the peace, subject to a very intensive training program, from none in the province to three. Work is under way now on an ambitious recruitment and

training program that will see 14 part-time native justices of the peace appointed in the northwest part of the province this spring. At the same time, work is continuing on a needs assessment and recruitment for a full-time native justice of the peace in the northeast and is commencing in the more southerly part of the province.

The native justices of the peace program is one we are building carefully. Extensive needs analyses are done in each part of the province before consideration is given to an appointment. This needs assessment includes close consultation with native people and justice personnel in the affected area. Apart from assisting in the determination of priorities and assignments, this process is vital to the building of a base of interest in and support for a native justice of the peace appointment.

It is not simply a question of finding an apparently suitable native candidate and appointing him or her. Instead, it is important to demonstrate to native people exactly what a justice of the peace can do for them. As well, careful selection and training are important, as are intensive support and backup following the appointment. It is not easy, and could not be easy, to find native people who are willing to take the so-called social gamble of becoming a judge of their peers. The cultural pressure day by day in such a position is truly enormous. We cannot expect that every appointment will work out, but we are committed to rigorous selection, careful training, and most important intensive backup. We are committed to making this program work and are with it for the long haul.

My ministry will be working towards improving the administration of justice in the remote north by building on the native justice of the peace program. I am, of course, interested in the views of this committee on any other ways in which the intractable problem of administration of justice in the remote north can be improved.

As I set out the many initiatives and accomplishments of this government over the past year, I suggest that we are all rewarded by the results of our campaigns against drinking and driving. Our success with the Christmas campaign has been impressive. A recent study by the Traffic Injury Research Foundation of Canada revealed that in December 1985, the percentage of driver fatalities where the driver was found to have an alcohol level over the legal limit decreased to the lowest number on record for any month of any year in Ontario.

This same study found that during December 1985, the number of drinking-driver fatalities and impaired-driver fatalities dropped to historic lows. By way of illustrating this dramatic decrease, I should point out that in the month of December during the 10-year period 1972 to 1982, an average of 41.9 per cent of drivers who died were legally impaired. By December 1985, the comparable figure plummeted to 7.4 per cent.

Last June, as a result of an experience I had at a high school meeting in Gananoque, we launched our first anti-drinking-and-driving campaign during the summer months. Called Arrive Alive '86, the program employed 88 high school students in communities across the province to promote awareness of the dangers of drinking and driving. Statistics show that more people are killed and injured on our highways during the summer months than at any other time of the year. We intend to extend our campaign this summer.

Despite the advances we have made in reducing alcohol-related fatalities, the very existence of any statistic reminds us that we must not relent in this war. My ministry will continue to work towards the elimination of this crime on our highways. We expect the concern of the public to continue to support our efforts.

On another topic, we introduced legislation addressing the issue of conflict of interest. The bill has four key elements. (1) A clear, comprehensive and objective definition of conflict of interest is outlined and a concise code of conduct for ministers is established. (2) An all-encompassing disclosure rule is declared for all members, plus their spouses and minor children. (3) An independent commissioner is established to provide advice to members and to rule on conflict issues. (4) A procedure is established for investigating breaches and imposing sanctions.

I believe this legislation will clearly benefit every member of the House. The bill provides the necessary assurances to members to feel confident that if they have fully and frankly consulted the commissioner and have followed his or her advice, they will not be found in breach of the legislation.

In our view, there is no need for a set of unnecessarily harsh restrictions that will discourage individuals of high calibre from seeking public office. What is needed is a clearly defined set of rules to serve as a guide-post to members and act as a mechanism for resolving doubtful cases. This bill seeks to provide those missing elements. It is an approach that is simple, fair and reasonable, and I am confident it will enhance the public's confidence in government in this province.

On the issue of equality rights, I would like to note the very substantial improvements in the rights of all Ontarians that members of this assembly accomplished in the passage of Bill 7. I would particularly like to congratulate my colleague the member for Ottawa Centre for the very important role she played in this exercise. I think Ontario is a better province as a result of the work of this committee and the Legislature on this very important subject. Of course, Bill 7 is not the government's only or final work on the equality rights provisions of the Charter of Rights. My ministry remains actively involved in reviewing equality rights issues and in advising other ministries of government.

I was particularly pleased this year that we were able to contribute to the historic decision of the Ministry of Community and Social Services to eliminate the spouse-in-the-house rule. As members of this committee will know, this was a rule that seriously disadvantaged single women. My officials worked very actively with the Ministry of Community and Social Services to develop a solution to this problem that was fully acceptable to the Women's Legal Education and Action Fund as well as to the two women who had started charter complaints.

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Since that time, my officials have been working extremely closely with the entire Social Assistance Review project being carried out by George Thomson. We see the resolution of equality rights problems in the provision of social assistance as a very high priority and are devoting a significant amount of our work to it.

I was also very pleased to see the substantial equality rights initiatives contained in the new Pensions Benefits Act. One of the first initiatives taken in response to the Charter of Rights by the Ministry of the Attorney General concerned equality issues and pension reform. Officials of the ministry worked intensively as part of an interministerial committee on pension reform and were instrumental in helping Ontario officials to develop a consensus among the provinces on equality rights reform in pensions.

The new Pensions Benefits Act is an enormous improvement in terms of equality rights over the existing law and we are proud to have been part of it. In addition, we are working actively on equality rights issues in relation to insurance and employee benefits. This is another particularly complex area. We have again targeted it for our efforts, even in the absence of charter challenges, because of the widespread impact it will have on individuals in Ontario.

We have recently completed a review of all the regulations under the statutes administered by the Ministry of the Attorney General. For the most part, the regulations were found to be in compliance with the charter. A few relatively minor potential inconsistencies were discovered and these will be addressed in amending regulations within the next short time.

The breathing of life into the equality rights provisions of the charter, which we must do, is an ongoing and perhaps permanent exercise. It requires active efforts both within and without government. I remain convinced that we can resolve most of the major charter issues without litigation. I invite members of this committee to bring to my attention any equality issues they are concerned about. We will certainly do our best within government to seek appropriate remedies. In that respect, I have no doubt that in a relatively short time it will be necessary to put before you the son of Bill 7. However, we might have a brief respite before that moment occurs.

Last September, the government announced a financial commitment of $5.4 million to assist victims of crime. These initiatives are aimed at reducing the incidence of family violence as well as reducing the confusion and alienation of victims and witnesses of crime when faced with forced participation in the criminal justice process.

In response to the needs of victims and witnesses in the criminal justice system, the government has allocated funding for the support of a victim-witness co-ordinator in 10 of the crown attorneys' offices. These people will ensure the victim is kept informed of the progress of his or her case and receives general information about the workings of the justice system. If this service proves successful, it may be extended to include every crown office in the province.

The Metropolitan Toronto Police, the office of the director of crown attorneys and the crown attorney's office for the judicial district of York have worked co-operatively to develop a victim-impact statement pilot project which I announced last week. The primary objective of this project is to provide the victim with the opportunity to express his or her views regarding the physical, emotional and economic impact of the crime directly to the prosecutor and/or the presiding judge. Every reasonable effort will be made to use the information in the victim-impact statement in the crown attorney's submissions to sentence. The information in these statements will be used only after a conviction is registered.

Because victims of crime have expressed the view that their injuries are not consistently represented to the court, this pilot project represents a reorganization of the police and crown administrative procedures in an attempt to make this information readily available in the victim's own words to the crown attorneys and the courts. A formal evaluation of this project will be conducted during the 18-month life of the project. If the results are encouraging, the Ministry of the Attorney General in conjunction with the Ministry of the Solicitor General will work towards province-wide implementation of the introduction of these statements.

Another recent initiative was the appointment of Father Sean O'Sullivan to conduct a review of advocacy for vulnerable adults in Ontario. Vulnerable adult populations include the frail elderly, the developmentally handicapped and the psychiatrically disabled.

I share with my colleagues the Minister of Health (Mr. Elston), the Minister of Community and Social Services (Mr. Sweeney), the Minister without Portfolio responsible for senior citizens' affairs (Mr. Van Horne) and the Minister without Portfolio responsible for disabled persons (Mr. Ruprecht) the conviction that vulnerable adults must be heard and that health and social services must respond to their needs. I also want to pay tribute to some constituents of mine who have, at our request, prepared an elaborate brief entitled Advocacy Ontario, which was the foundation of the questions that were placed before Father O'Sullivan.

Father O'Sullivan will conduct a thorough and independent review of the concept of advocacy and develop various options for the establishment of advocacy services. He will also consider ways in which advocacy might be co-ordinated with existing services and programs in the community. He has been asked to report within six months so the government can give timely consideration to his recommendations.

My ministry also deals with many matters of interest to business and commerce. Some of these come to me because they turn on questions of dispute resolution, whether or not in the courts. Others originate in discussions among nations on facilitating and regulating international trade and come to the Ministry of the Attorney General by reference from Ottawa because of the provincial constitutional responsibility over many such matters. Other commercial topics rest with my ministry because their governing statutes have been the responsibility of the Attorney General since the days before specialized ministries existed to deal with consumer or commercial matters. We are active on all three fronts, in consultation where necessary with people elsewhere in the government.

The main legislative activity in the past year on commercial matters has been in the field of international commercial arbitrations. The House has passed the Foreign Arbitral Awards Act dealing with Ontario's enforcement of foreign awards and I hope will soon give second reading to the International Commercial Arbitration Act that governs international arbitrations conducted in Ontario.

An advisory committee appointed last year will be reporting to me shortly on the desirability of establishing an international arbitration centre in Ontario, as has been done in British Columbia and Quebec. I expect in the forthcoming year to propose amendments to the law governing arbitrations in general, to complete the modernization process at home as well as abroad.

Several international bodies are discussing topics of interest to business. My ministry is represented on the federal Minister of Justice's Advisory Committee on Private International Law where we are informed of progress in these discussions and participate in the giving of advice to federal negotiators. An item that may well come on to the provincial Legislature's agenda soon as a result of these discussions, is the implementation of the United Nations Commission on International Trade Law convention on the law governing the international sale of goods. Other matters in the draft convention or discussion stage involve the recognition of trusts across national boundaries and the rules governing international factoring, leasing and franchising.

One matter touching commercial law closer to home is the protection of trade secrets, which is a subject of intense current discussions among the provinces and with the federal government. I also expect before too long that the Sale of Goods Act, which is rapidly approaching its centenary in this province, will be subject to review.

Finally, my ministry's total estimated expenditures for this fiscal year are $308.3 million. The actual breakdown of expenditures is available to the members in the material provided.

Thank you for your attention.

Mr. Chairman: Thank you, minister. We now will turn to the official opposition, the member for Oakville (Mr. O'Connor).

Mr. O'Connor: I welcome the opportunity to provide some opening comments with respect to the minister's 1986-87 estimates. I can assure

committee members that my opus will not be nearly as maximus as the minister's has been, but I hope that some of my remarks will be of some use to virtually the entire staff of the Ministry of the Attorney General present in the room with us this afternoon.

Initially, I thank the minister and his staff for the preparation and presentation to members, as early as they did, of the estimates for this year in the usual form of a book with explanatory notes and background material. Also this year–I do not know whether this is unique–we seem to have a second book with a summary of all of the first book, the notes and places to follow along with the passing of the various estimates and votes as we go along. It is very well organized and put together; I thank the staff for that.

1640

Traditionally the purview of lawyers, judges and the Law Society of Upper Canada, the administration of justice in Ontario is increasingly under pressure from a growing number of Ontarians who wish it to reflect better the needs of the average citizen. The justice system is the fundamental cornerstone of our society, without which none of our other institutions can carry on their responsibilities. Without the maintenance of the rule of law and the security, both actual and psychological, that it provides our citizens, our society could not function as we know it.

Each of us must have faith that he or she will be treated fairly by his government, by his institutions and by his fellow citizens. If that faith, that security blanket of law and order is allowed to erode, people begin to rely on themselves to maintain personal security and personal wealth. Might becomes right. Anarchy is the ultimate result of a loss of confidence in the legal system. We must all know that the system works for the law-abiding citizen, that crime does not pay and that the victim of crime is more important than the criminal.

Yet the administration of justice in Ontario continues to function on a financial shoestring compared to the funding provided to such ministries as Health, Education and Community and Social Services. All of them, no doubt, are fundamental services to the people of Ontario; however, as the minister pointed out in the last paragraph of his statement, the budget for the Ministry of the Attorney General remains at $308 million or only one per cent of the total of the provincial budget of some $30 billion.

I point out that half of this $308-million budget, or about $160 million, is generated within the ministry itself through the payment of fees, the collection of fines after the imposing of same by judges, through federal government monies transferred, and as the minister pointed out, funds collected from the Law Foundation of Ontario. These funds, therefore, are not an expense to the general Ontario taxpayer. In effect, the minister has allocated a very small relative amount for the most fundamental and important responsibility of this government, the administration of the system that allows us to function as a society.

I am not suggesting that there need be a massive infusion of funds into the system. We have much to be proud of in the Ontario justice system. Amazingly, not all of these things have been accomplished in the past 18 months; most of them have been accomplished over the past two, three or four decades. In Ontario, we can point to some of the best and brightest jurists in the common law world. We can be proud of progressive psychiatrists and rehabilitative programs, and we enjoy very modern programs to assist the poor, native people and children caught up in the judicial system. We have provided in this province statutes that ensure equality and fairness in dealing with the very painful reality of marriage dissolutions. We can, and should be, proud of what we have put in place for the men, women and children of this province.

Yet I note, and others have written to this effect, that there is an undercurrent of dissatisfaction in our justice system today in a number of quarters. Some of it is generated from the average citizen who has had the misfortune of being a victim of a crime and feels that 99.9 per cent of the resources of the system are allocated to accommodate the criminal, while he is left on his own to fight his battles in a system he does not truly understand.

By way of brief example, I point out that there is dissatisfaction among small businessmen who live and work outside the boundaries of Metropolitan Toronto. They feel they are being unfairly treated by the small claims court system, because they cannot process a claim for more than $1,000 while their Metro counterparts are allowed claims up to $3,000. This is a matter I have raised with the minister virtually since the last election. I have received polite and courteous letters advising that the matter is under study and will be looked at some time in the future.

As I have pointed out to him, the changing of the system to allow $3,000 limits in small claims courts outside Metro does not require legislative amendment. It can be done very simply and easily by the changing of a regulation. I get the

feeling that the minister, perhaps because his background and experience have been almost exclusively in Metropolitan Toronto, and particularly in the downtown area of the city, fails to realize the really intense feelings among a lot of people outside Metropolitan Toronto and across this province with regard to this seemingly small point. Believe me, it is a big point with a lot of people.

By way of another example of dissatisfaction in the system, I point out that noncustodial parents, for the most part fathers who have faithfully paid their support payments, and as we read this morning in the press grandparents who are organizing in groups, are denied access to their children and feel that the legal system offers them no recourse. I welcome the statement by the minister in his opening remarks that the question of access enforcement is being looked into by the government.

These are just three examples of average Ontario taxpayers whose numbers as a whole I would estimate to be in the hundreds of thousands who quietly maintain their dissatisfaction with the system. How much longer will they remain quietly dissatisfied? Judging from my mail such people are not prepared to stand pat much longer. I will hazard a guess that the Attorney General is receiving similar volumes of the same type I am receiving. They, too, have rights under the system and they want to see more equity in the way they are dealt with by the judicial system.

Equally important is the undercurrent I see being generated by those we rely on to run our justice system, those on the front lines, so to speak. Our judges have seen their salary dispute with the Ontario government remain at an impasse virtually since the time of the election, when as a result of a dispute that arose over how much attention was to be paid to the provincial court judges' committee, that committee broke down. The judges' representatives abandoned the committee and apparently nothing has been done since then. The impasse remains.

Further, the judges were not consulted before the Attorney General brought forward Bill 181 regarding their retirement age, unilaterally imposing upon them the necessity and the requirement to retire at age 70. From speaking with a number of them, I know the judges and their representatives see this as a knee-jerk overreaction to a perceived problem in an action commenced by one of their number. Our judges, with the heavy case loads they carry, see judicial appointments left vacant in extremely busy areas such as Metropolitan Toronto and Ottawa for in excess of one year. Judges in some districts work in totally inadequate facilities where there is virtually no security for themselves, for victims of the crimes and for witnesses who appear before them, as is the case in the judicial district of Hamilton.

We saw crown attorneys who had to threaten work-to-rule campaigns before their concerns were taken seriously. I can advise the Attorney General that there is still dissatisfaction among many crown attorneys who feel that the increase in wages they were granted was not what they were promised and was not adequate, given their working conditions and their degree of value to the judicial system.

We have dissatisfaction among lawyers who have seen their Queen's counsel designation unilaterally revoked, or at least the perception is there that their QCs have been unilaterally revoked. Of course, QCs have not at all been revoked. Every lawyer in Ontario who had a QC at the time of the announcement by this minister that they were to be revoked still holds his QC.

We now have seen a very unique levy placed on their profession to help fund the legal aid plan, a plan that benefits all citizens in financial need. On what other selected group of taxpayers in this province is there levied a special tax to fund a program of general benefit to society simply because of the position they hold as lawyers in this province? Whether or not they participate in the legal aid plan they are required to fund, as a tax, the operation of the plan. That approach is unique. It is a dangerous precedent to have been set by this government.

1650

Paralegal agents, to which the Attorney General referred, are patiently awaiting regulation so that their status will no longer remain in limbo, so that they can obtain the necessary insurance to ensure public protection and in order for educational and certification standards to be made available. The Attorney General admits that paralegal agents have a place in the system. He employs 39 of them in his own ministry and they were referred to at some length in his statement today. With proper training, paralegal agents can provide affordable, competent access to the justice system in those areas set out in Bill 42.

In his statement, the minister referred to Bill 42 as being one possible route by which we can begin to set regulations and rules with regard to paralegal agents. He named several others. As the Attorney General will know, Bill 42 has

passed second reading before the House and was slated to have begun public hearings before this committee on January 5, as was suggested by the subcommittee of this committee. However, the committee as a whole turned down that suggestion and the hearings were therefore put off. With that process in place, perhaps the public hearings on Bill 42 would be an ideal opportunity for him to have the public discussion he suggests in his statement should take place on the various methods that could be used. I can advise him that as the author of Bill 42, I am in no way wedded to the exact provisions of that bill. I would be happy to entertain a general public discussion on the route we should follow to legislate and govern paralegal agents, perhaps using this committee and the facilities available to it for a very short period of time. I ask the Attorney General to give that suggestion some consideration.

These judges, crown attorneys, lawyers and paralegal agents are the face of the judicial system in Ontario. As previously described, they are the front lines the average Ontarian will see when, of necessity, he becomes involved with the justice system. It is essential for our citizens that these people are satisfied with the roles they play, with the demands made of them and with the guidelines and salaries under which they work. We would all like to believe that regardless of internal problems or divisions, the justice system will carry out its responsibilities in an efficient and compassionate manner, but human nature being what it is we would be foolhardy to persist in believing that this undercurrent of dissatisfaction will not ultimately have an effect on the quality of service our system provides.

Overworked judges in less-than-adequate facilities dealing with overworked, underpaid crown attorneys is not the best of all possible worlds for an unsuspecting citizen to venture into in his quest for justice. The concerns that remain unresolved in these areas will find their way into the decisions affecting the lives of our citizens. In short, for the system to work efficiently, humanely and in the public's best interest, it must be funded properly.

Perhaps the increase should be comparable to that which the Attorney General has instituted in his own office among his own personal staff, an increase of some 23 per cent for additional staff as he carries on his role referred to by John Downing of the Toronto Sun as a one-man gang of government.

Hon. Mr. Scott: I have three ministries.

Mr. O'Connor: The Attorney General interrupted and indicated he had three ministries. Surely the other two ministries he carries similarly have budgets for staff.

Mr. Chairman: He had four for a while.

Hon. Mr. Scott: I am much more economical than Alan Pope. I have fewer staff at lower expense.

Mr. O'Connor: I assume that the 23 per cent increase indicated in the estimates of the Ministry of the Attorney General are for the Attorney General's staff only and that the staff in his other two ministries to which he refers would similarly have funding. This is a Ministry of the Attorney General increase. Perhaps he can advise us of that in the course of questioning.

Mr. Chairman: Perhaps we can ask the Attorney General to make a note of that question. I know he is rather anxious to respond, so if he will contain himself and hold back on the response, you can carry on with your submissions, Mr. O'Connor.

Hon. Mr. Scott: He moves from the high road to the low road with such rapidity, Mr. Chairman, I am getting car-sick.

Mr. Chairman: This is a bumpy ministry.

Hon. Mr. Scott: It certainly is with this bus driver.

Mr. Chairman: He has to cover the territory. Allow him an opportunity.

Mr. O'Connor: As legislators, we must broaden our scope to ensure that a fair and equitable way is found to adapt the long-held standards in the justice system to the more consumer-oriented demands of the public. Significant changes are necessary, but it does not necessarily follow that the entire system is failing to discharge its mandate. If left unattended, the concerns I addressed earlier will spill over and become major disruptive forces in our judicial system. Essentially, I believe the public is saying it wants easier access to the system, with a more direct voice in the functioning of the structure to reflect the views of the average person whom, it must always be remembered, it has always been intended to serve. Justice must not depend on the size of one's wallet, be it full for a high-priced counsel or empty for legal aid help. It must be available to the millions who exist in the middle of the spectrum.

While we are mindful of what the public is seeing, we must realize it is essential that the legal profession be encouraged to participate to the fullest extent possible, ensuring that its views, through county bar associations and the Canadian Bar Association, Ontario, are heard, respected and incorporated into the necessary

changes. We must actively seek the views of our front lines, as well as hearing the views of the victims.

We must have the courage to move forward in those areas where there is legitimate demand, such as victim-witness assistance programs. We know they work. The London pilot project has been tremendously successful and we welcome the recent announcement of the ministry's funding of 10 more pilot projects. But surely we are beyond the pilot project stage; we know victim-witness assistance programs work. It is time to move beyond the pilot project approach and make a full commitment to the rights of victims.

We have always proceeded under the premise that the crime has been perpetrated against the state. Unfortunately, this has led to a situation where the system is not particularly astute in understanding the genuine needs and concerns of victims and witnesses. The Attorney General referred to funding last year to the extent of $5.3 million for victim-witness assistance programs in the province. From the wording, I gather he feels that is an initiative taken by his government. It should be pointed out that the victim-witness assistance program was in place when the Liberals took over the government in June 1985, and the proposed funding at that time was $5.1 million.

Just as I described the judges, crown attorneys and lawyers as the face of justice, so too must the judges, crown attorneys and lawyers remember that the victims and witnesses are human. The courtroom may be where the judges, crowns and lawyers spend each work day, but it must be remembered that it is not the everyday world of an average citizen who has unwittingly found himself to be a victim or a witness.

In closing, while our system works well, it could work much more humanely in dealing with its cases. As I have indicated, that will require additional funding. What it also urgently requires is an attitudinal change to remain mindful of those it serves and to ensure that funding put into the system will truly benefit the average Ontarian.

Those are my brief initial remarks and I welcome the opportunity to question the Attorney General in regard to the specifics of his programs as we proceed through the 10 hours of these estimates.

Ms. Gigantes: I will try to be very brief. First, I would like to congratulate both of the earlier presenters to our committee. I particularly appreciated the Attorney General's comments this year as compared to last year. I thought they provided a good deal more information to us of a more specific nature.

I will start by bringing to the committee's attention something that my mom brought to my attention last year. It was a very brief little article that is run regularly in the Brockville Recorder and Times. It was dated early in February 1986. She cut it out and it was so tiny that she had not kept the date from the paper. It is called "February 14: 100 Years Ago," so I guess it was February 14, 1986. The dateline is 1886. It reads: "A woman named Rebecca O'Howland died in jail yesterday. She was a lunatic and had been there for about a year awaiting removal to the asylum. This is the third death in jail within two weeks and the fourth since Christmas."

1700

Sometimes when we look at our justice system and how it operates, we have to recognize we have come a long way. That was Brockville 100 years ago; 101 years ago now. I guess it was probably pretty typical of the way our justice system worked and the lack of psychiatric services we had for people in those days. On the other hand, when we look at our justice system and the budgetary expenditures the minister has presented to us, in the form in which he is presenting them to us–I have some questions about the form of that presentation–we are looking at a budget of $308 million plus. That represents an increase of one per cent in the projected expenditures of that ministry over the year. He may not spend it all. Our Attorney General is notoriously careful with money.

However, when we look at the estimates for the Ministry of Correctional Services in this province–and we are not talking about correctional services and police, we are talking only about correctional services–we are looking at estimates of $313 million plus, which represents an increase of 17 per cent or $45 million in absolute terms over last year.

This has been addressed by some of the comments that have been made by both the minister and the Conservative critic. It seems to me, in the overall sense, that there has to be something wrong when we end up spending more to keep people in jails, which run whatever nugatory programs we have through the Ministry of Correctional Services, than we spend on our justice system. There are new ideas coming from around the world, and some not so new, that we have not begun to initiate here in Ontario. We know that we can do an awful lot more to help justice in this society through a good system of

justice than we can by however well-heeled and well-oiled a Ministry of Correctional Services.

Some of the questions I have, and I am going to run through them very briefly instead of making a statement, relate precisely to that concern on my part. When we look in our briefing book at the estimates that relate to the native court worker program, which is a program I have been interested in and have expressed interest in before at this committee, we are looking at an expenditure estimated at something under $1 million–$921,000 this year–for a program that is being built up carefully and slowly. I am sure that is the right way to do it, but when we look at the Ministry of Correctional Services and see the kind of incarceration rates we are dealing with for native people in this province, we have to wonder whether we cannot do something better.

In the 1981 census, and I do not know what the new census will show, our total Metis and nonstatus Indian population in Ontario was reckoned at 110,000, which represented about 1.3 per cent of our total population; but in 1985-86, according to the Ministry of Correctional Services, of all the persons admitted to our jails, 7.6 per cent were people of native origin and they received nine per cent of the total sentences in Ontario.

What also amuses me, coming from figures that were kindly provided through the Ministry of the Attorney General following last year's estimates, is to look at the male-female sentencing and admissions to jail among native peoples as compared to the overall population. In 1984-85, which was the last year for which the ministry had figures, native female rates of admission to our jails ranged from 16 to 45 per cent of all female admissions by age group. The average for native females as a proportion of all females admitted to our penal institutions was 24.5 per cent.

If you go into some age groups it is quite extraordinary. In 1984-85, in the age group of 51 to 65 years, 53 native women were admitted to jail in Ontario, who represented 39 per cent of all female admissions. In the group 65 and over, there were nine native women, who constituted 45 per cent of all female admissions. I find it hard to understand why anyone 65 and over should be admitted to our jails, and to think there are women of that age being admitted to our jails in 1984-85 makes me think we are using the justice system and our other systems wrongly. There has to be something terribly wrong with what is happening. I do not understand those figures, and they worry me.

If times allows us, I would also like the opportunity to take an intensive look at the funding of our legal aid system. I do not think I have the figures firmly in my head, and I would like to understand better how we are financing the legal aid system so that we can consider the minister's suggestion to extend coverage in the legal aid system and exactly how we might do that.

I would like the minister to spend some time elaborating a bit on his statements, both now and previously, concerning access enforcement. It concerns me, and I think it is quite contrary to the views expressed by the Conservative critic just now. I am not sure it is something we should be getting into in terms of a major new justice initiative. I would like to discuss some of the reasoning behind that.

I, too, am interested in the question of payment for crown attorneys and, because the Conservative critic has raised it, I think it will be something to which the minister will respond.

I would like to understand what is happening in terms of general programs and general policy developments in the area of providing support for victims of crime. I would also like to look at witness protection. We have had an accounting, however preliminary at this stage, from the minister in his role as minister responsible for women's issues, of what is involved in the latest $5.4-million announcement through his and other ministries for victims of crime, and especially for victims of crime and the prevention of crime within the family.

I noted that there has been no reference at all, nor have we heard a peep from the minister recently, on the subject of political rights for public servants. I would like to know when we can expect some kind of forward motion from the government on that.

Interjection.

Ms. Gigantes: I have not gone 10 hours.

Mr. Chairman: I am sorry; I was talking to your colleague, not to you. We were just discussing the number of hours this committee has for estimates. I am sorry if I interrupted you.

Ms. Gigantes: I thought you were suggesting I had taken 10 hours already.

Mr. Chairman: No, I was not inferring that at all.

1710

Ms. Gigantes: I am anxious to hear when the minister feels he can expand the limit that will be

available to people outside of Toronto to have access to small claims court for claims up to $3,000.

I am curious about why, when we are currently considering the expansion of the office of public complaints, we do not seem to have a budgetary item that I can identify in here–I may have missed it–nor do I see an allocation I can readily identify in here for the wonderful court renovation program. Perhaps I just have not found it in the briefing book yet. It seemed to me from what the minister was suggesting through his statement that, in fact, a good deal of that money for the renovation of courts around the province was going to be used up to move all the crown attorneys in Toronto to one building. Have I got you wrong? Good.

Those are the items I would like to see us able to spend some time on. If we can keep the discussion quick on each and ask for any other written information the ministry or the minister can provide later, I would be quite satisfied.

Mr. Chairman: Before–

Interjection.

Mr. Chairman: I did that. I know the Attorney General wants to respond, and I have not heard from Mr. Cooke yet. But on one administrative housekeeping matter, if the committee can give us any indication with respect to some of the staff who may be required for tomorrow, that may be of help to the minister as well; if there are specific areas, staff or departments you want here. That may not be possible, but if you want to think about it for a moment it may free up some people who would otherwise be occupied here simply visiting with us.

Hon. Mr. Scott: I think Ms. Gigantes will agree what we did in women's issues was helpful. At the end of every day we listed four or five major items we would try to consider the next day, perhaps two from each party if they did not overlap. In every case that took us the whole time allocated. Even if it had not, we would have been able to go on. For example, next day you may want to discuss legal aid, if that is going to be a major issue, or courthouse construction or whatever, and you will then have the people on tap to deal with it that way.

Mr. Chairman: Perhaps we could proceed in that fashion. Mr. Cooke, you could perhaps allow the Attorney General to respond as he may wish at this point.

Hon. Mr. Scott: I do not really want to respond. I have a note of the concerns each critic has raised. I am prepared to start out on anybody's agenda and deal with the questions that were presented in whatever way you think best. If it is something I can better deal with tomorrow in the sense that I may need some preparation time, I will tell you and see if you will permit that.

Mr. Chairman: All right. I will move back to Mr. O'Connor and we will rotate the questions.

Mr. O'Connor: I take it Mr. Cooke has–

Mr. D. R. Cooke: No.

Mr. Chairman: Mr. Cooke does not have a statement, but he does have questions.

Mr. O'Connor: May I then start from the top with vote 1101, item 1, which is the minister's office and staff? It is found on page 13 of the estimates book.

Hon. Mr. Scott: Can I ask you to defer that until tomorrow? I have all these figures and I will bring them in. I did not imagine such an issue would be raised here, but I had them all prepared in case Mr. Pope ever asked me the question.

Mr. O'Connor: You mean you could not imagine that a 23 per cent increase in your staff allotment would be questioned by this committee?

Hon. Mr. Scott: Not after I have seen the allocations the Board of Internal Economy has made to provide you people with support services, which struck me as quite remarkable.

Mr. O'Connor: I can restrain myself until tomorrow on that issue.

Maybe I can go then to my next-favourite subject, and that is a matter I raised and the minister raised also: Bill 42, or paralegal agents. I will comment again that I was happy he spent as much time as he did on his initial comments with regard to this very difficult problem.

For the first time that I am aware of and that I have seen, he set out concisely the three or four methods by which we might deal with this difficult problem, of which he has indicated Bill 42 is only one. May I again state that we were very close to holding public hearings before this committee with respect to that bill? The matter was deferred by the committee as a whole. I was not here that day, unfortunately, and did not take part in the discussion. I might have had something to say about it at that time.

Will the minister now consider my offer, which is to assist in the scheduling of public hearings on Bill 42? I encourage the members of his party to co-operate in setting up hearings as soon as possible, with a view to exploring perhaps the three or four methods by which this

problem might be dealt with. I can confirm that, from my point of view, I am not unalterably wedded to the concepts of Bill 42. I would be amenable to, and accept, any range of amendment that would be satisfactory to the committee, which might thereafter allow the bill to proceed to its conclusion.

The advantages, of course, of doing it this way are that we are three quarters of the way through the process of regulating paralegals, if we take the vehicle that is there and available to us as opposed to what I think the minister is suggesting–that is, some kind of public discussion before even introducing a bill, which could be well down the road. The minister should understand that this problem is getting ever worse every day in that there are now 800 to 1,000 paralegals practising in the province.

Recently, there have been several rather notorious prosecutions required because of the very difficulties I enunciated when introducing my bill. These were the reasons I introduced the bill. I point out, as he has, that the Law Society of Upper Canada has now agreed that regulation and legislation is the route to go and that prosecution is not the route to go, except as a last resort.

The Attorney General may have read the latest issue of the Ontario Lawyers Weekly. In an interview with Mr. Scace, the treasurer of the law society, it is reported he said–and I assume that such a learned journal is correctly reporting him–I will quote from the January 23 issue of the Ontario Lawyers Weekly:

"Mr. Scace said if the Ontario government fails to act soon to regulate paralegals, the law society 'will prosecute the hell out of these people.'

"The law society is 'terribly perturbed' the Attorney General's office has delayed implementing guidelines for paralegals."

If it is that urgent, if it is that necessary, let us get on with it. Let us use the vehicle that is in place with a view to making whatever amendments are necessary to satisfy the needs of the Attorney General, the opposition parties, and particularly the public, to save the public from what is now becoming a case of more and more unscrupulous people in this area.

Will he consider that recommendation?

Hon. Mr. Scott: Certainly. In dealing with paralegals, I think it is important to get a sense of what we are about. I presume the reason this item is on the agenda is that we want to provide a more efficient and cheaper service to our citizens. Any system that does not make the change in a way that is more efficient and cheaper for the consumer has not done what we have in mind. I take it that is the effect of any reform in the paralegal area.

There are, however, a number of problems. I am not satisfied in my own mind that the solution to the paralegal issue is to create a territory for paralegals and then establish within a ministry of government a mechanism, as in the Ministry of Consumer and Commercial Relations, to police those paralegals. For example, if you are going to deal with paralegals in the administrative law field, is it desirable to create a whole policing mechanism for them either in the law society or in a department of government? But if you do not create such a mechanism, how are citizens who are wrongfully represented, overcharged or abused in some way going to protect themselves?

You have that kind of problem, and I think it is a serious problem. I do not think the resolution of the problem is as straightforward as the author of Bill 42 thinks when he says we will hand it all over to the law society. I understand the impact of this change being to reduce the monopoly of the law society by creating a system that will permit other people to provide this service without regulation from the law society.

1720

In England, of course, they have gone very far indeed. They are presently considering the demonopolizing of real property law so that much of solicitors' work, which is exclusively performed in Ontario by lawyers, in buying and selling houses, in conveyancing documents and so on, will in England be performed by clerks in banks, mortgage companies and a wide variety of other things.

You suggest that, of course, to the law society, or indeed even to my friend Mr. O'Connor, perhaps, and there is great excitement that that cannot possibly be done–I should not judge your answer–and the concern is that there will be injury done to citizens for which there will be no recourse. If you are going to deregulate, if you are going to reduce the monopoly, you have to create another mechanism to assure that there is a disciplining process and so that there is some kind of compensation process. To be perfectly frank, I am not precisely certain how that is to be done.

The proposal of the law society has been helpful, but has not been overly aggressive. It has listed four areas in which deregulation might occur. One of them is administrative tribunals in Ontario, where you do not have to be a lawyer now. One of them is administrative tribunals

under federal legislation, where they probably could not require you to be a lawyer for constitutional reasons now anyway, even if they did, which they do not.

The third category is the provincial court, civil, where you do not have to be a lawyer now to represent anybody, and the only advance that I can see is really minor provincial municipal motor vehicle offences. I would have thought that the law society may not have gone far enough to satisfy legitimate public concern, because they have really gone no distance at all.

Mr. O'Connor: May I just respond to that? With regard to your last remarks, I would agree that they did not go far enough, and they should have included further and other types of court systems, as does Bill 42. I perceive that the minister somewhat misses the point with his remarks, that we need more than a vehicle simply to watchdog them and prosecute those who are defrauding the public. Yes, of course we need that.

I wonder whether he has read Bill 42 fully and carefully, in that it provides for a system of education that I think is necessary, a set of standards to be met by them, as is the case with lawyers. It provides–he mentioned this–for protection of the public through establishing an errors and omissions insurance, the requirement to maintain trust accounts, which would be reportable to their governing body.

All of those things are already set out in that bill, and they seem to meet the requirements the minister said we should consider; but again, I will make the point that I am not totally wedded to simply Bill 42. My main point was, why do we not use the vehicle that is here, available to us, which could be implemented within a week or two following the conclusion of these estimates, to air all of these various views from people in the community?

Hon. Mr. Scott: It is true that Bill 42 refers to all these things, but Bill 42 licenses paralegals within the framework of the Law Society of Upper Canada. While there is nothing wrong with that, I think as a matter of principle it would be perceived by the paralegal industry, and perhaps by their consumers, that this was not what they thought the licensing of paralegals was going to mean. What they envisaged was that there would be a demonopolizing of the professions, and simply to say to the law society, "You can create another category to be regulated under your act: namely, paralegals," might not–I do not say it would not–meet all expectations in the public mind.

I do not view it as a simple question. I view it as an important threshold question about the nature of the legal profession that we have to address seriously. While it is important to get a bill passed, it is not important to get any old bill passed, because we are dealing with the fundamental question; and I would hope we will be able to get the House leaders to arrange an agenda for it so that we can proceed with consideration of it.

Mr. O'Connor: My final question is this: one comment you made in your remarks is that the one thing we should not do is nothing. That is exactly what is now being done by the government on this issue. Can you tell us–

Hon. Mr. Scott: There is a long tradition of that in Ontario.

Mr. O'Connor: You have learned well.

Can you tell us what, in a substantive way, is planned by the government in the future to deal with this problem? Are you planning public hearings? Are you planning a bill? What are you planning for us to look forward to?

Hon. Mr. Scott: The first thing we did was we indicated we wanted to hear the views of the profession. We have now heard the views of the profession and we have analysed their response to the general proposal. We hope that we will be able, in due course, to present a policy paper that will set out what we regard as the appropriate way to proceed after reflection on the three or four areas I have considered.

For example, if we are going to deregulate the profession, which is what paralegals are all about–deregulating a traditional kind of professional work; if we are going to do that, the first question to ask is, do we expect these deregulated persons to be able to discharge a service or a function in such a way that we can hold them to account, or are they going to be just like–I do not want to demean another craft–but are we going to be able to judge a paralegal just as we would a TV repairman? If he does not repair your TV set that is too bad; you junk it and buy a new one.

Are paralegals going to be dealt with that way or are they are going to be a quasi-professional class that will be regulated? I am not talking about educated. I am talking about regulated in the sense of being disciplined, admitted to business and rejected from business. Or is it the view that they should be allowed to carry on business, pay a licence fee and off they go? That is an important threshold question, especially if deregulation, demonopolizing, is a process which is only now beginning.

I am frankly in two minds on that question. Ideally, I would like to deregulate in certain areas where you would simply say to the public, caveat emptor. People can carry on as paralegals and do this kind of work. If they do not do it to your satisfaction, you simply sue them the way you sue a TV repairman. You do not come complaining to us if they are no good. On the one hand, I would like to do that. On the other hand, I recognize that some of the things it is proposed they should do are very serious and very important. It would be wrong to say to a citizen, "That is the limit of your remedy."

There is that fundamental question. When you resolve that question, you then come to the issue: what is the mechanism going to be for performing any disciplinary function? Is it going to be the law society, is it going to be some agency of government or is it going to be some self-governing mechanism that the paralegals themselves are anxious to create and staff?

Once you have decided that, you then have to go to the areas that will be permissible for paralegal activity. Here, of course, there is a wide range of possibilities. We can go as far as they go in England, but I think it unlikely that our profession would be happy with that proposal. The original proposal, as you know, was that all real estate should be deregulated. I do not think our profession would happily absorb that, but that is the way a fully developed paralegal system ultimately goes. Alternatively, we can do the very modest demonopolizing that the law society has proposed.

These are three major questions about the shape of the administration of justice in Ontario over the next couple of decades. I want to be sure we answer those questions right.

Mr. O'Connor: I entirely agree that those are legitimate concerns worthy of study before we get fully into the system. I am happy that the minister is putting his mind to these questions and has talked them through to the point of at least determining what the alternatives are in a major way, expressing them as threshold questions.

I am somewhat perturbed, though, by his use of the words, "in due course," famous government words that mean "maybe in the future, maybe never in the future, but some time way down the road." Can the minister be more specific as to whether there is a study group set up within the ministry, whether he has proposals for a task force, whether he has any proposals to begin actively studying the legitimate points he makes that need to be studied before we can come to full implementation of a bill?

1730

Hon. Mr. Scott: Our policy development division is looking at this and will, I hope, report to me soon.

Mr. O'Connor: Are we to take it from that then that it is at the initial stages of some kind of study, but it is not to the point where you are seeking public input because it is within the policy section of the ministry?

Hon. Mr. Scott: That is correct. It is a matter of priority. I do not think we can fairly regard it as the matter of highest priority that confronts the policy division, but it is a matter of priority and a matter, in my opinion, where the greatest care has to be taken. Once the course has been selected, if the course is approved by the Legislature it is inconceivable that there will be any turning back.

Mr. O'Connor: The minister will agree that the process will take several years before we reach an ultimate end.

Hon. Mr. Scott: Oh no; months.

Mr. O'Connor: Sure it will, if it is simply at the policy level right now. Thereafter there has to follow some reaction from the public and perhaps some kind of legislation. To get back to my point, does the minister not agree that the use of the committee already established as a means of tapping public opinion might be helpful at this stage?

Further, my last question is what happens to the public in the meantime? Even if it is only months away, and I suspect it is really years away, what do we do about the 800 or 1,000 uneducated, unregulated, undisciplined paralegals out there? How do we protect the public to ensure it is getting quality service from them in the meantime? There are difficult problems arising.

Hon. Mr. Scott: There are major difficulties. One of the difficulties, about which I have had discussions with the Treasurer, is that disbarred lawyers, who have often been disbarred for reasons of dishonesty, are now holding themselves out as paralegals.

Mr. O'Connor: Under Bill 42 they would not qualify.

Hon. Mr. Scott: It does not say that in the bill, but I presume that oversight will be corrected.

Mr. O'Connor: It is in the bill in section 8. Read it. Those are all my questions.

Hon. Mr. Scott: A very defensive approach to Bill 42.

There is a problem out there. The law is now explicit about the right of paralegals to practise, except in the police court and municipal court area where there is a dispute. The law society has said, and I think rightly, that in the noncontested areas outside of municipal police courts it will prosecute anybody who carries on a paralegal activity against the law. They have indicated that in the police court area they will prosecute if the Court of Appeal says they can. In other words, life will go on until the Legislature decides what appropriate demonopolization is required.

I want to emphasize to you that this is a challenge for not only the legal profession; it is the same kind of challenge that is being addressed in medicine, accounting, architecture and on every professional front. Frankly, there are few questions that are more difficult, not only from a professional point of view but also from a point of view of assuring that people get what they are entitled to, which is highly qualified service at a reasonable, regulated cost.

We have not done perfectly with respect to the profession of law to begin with. Can we believe that by rushing the judgement, as you want to do, we will do any better with paralegals? I say we have to take real care to do this right.

Mr. O'Connor: But we have to start.

Hon. Mr. Scott: Bill 42 is by my bedside table and is read regularly to understand what its provisions mean.

Mr. Chairman: Having dealt in some detail with Bill 42, I would like to move on to Ms. Gigantes.

Ms. Gigantes: As a tiny footnote, did I understand the Conservative critic to suggest there were 800,000 paralegals?

Mr. O'Connor: No, 800 or 1,000.

Ms. Gigantes: I heard it wrong. I was horrified at the thought that one out of 11.5 Ontario citizens was a paralegal.

Hon. Mr. Scott: It would be a crowded group.

Ms. Gigantes: Can I ask an overall question about the estimates? My understanding of these estimates, even after years of attempting to comprehend them, is very limited. I wonder if I can ask for help understanding how we relate page 105 in the briefing book to the overall budget we are voting in these estimates.

Hon. Mr. Scott: I should have introduced the Deputy Attorney General, who was not Deputy Attorney General when we were last here, on my left, and Ross Peebles, who is the general manager of the department. Either of them will be able to respond to that question.

Mr. Peebles: Page 105 is a statement of the revenue; a lot of it is in cost-shared programs. That all goes into the consolidated revenue fund. There is really a peripheral relationship between the moneys that are spent by the programs set out in the rest of the book and this statement at the back.

Ms. Gigantes: But if the general revenue fund is providing a budget of $308 million plus, on which we are to vote, the general revenue fund also receives by estimate this year $159,896,000.

Mr. Peebles: Yes.

Ms. Gigantes: When we talk about a percentage of government moneys that are allocated as new moneys, if you want to call them that, out of taxpayer revenue without any kind of compensatory flow-through to the general revenue fund, and we look at that as a percentage of overall government expenditures, we are talking about government expenditure in the justice field which is much less than one per cent.

Mr. Peebles: That would be a correct interpretation.

Ms. Gigantes: If we approve your sources of revenue, roughly what we will be saying when we vote on this is that we are not voting $308 million; we are voting about $150 million plus.

Hon. Mr. Scott: There is no doubt that the net figure is in that order, and we run a spare operation. Any support I can get from this committee in approaching the Treasurer about any of these matters is always welcome. He always says to me, however, "Which health or education component would you like this money taken from?"

I have that kind of trouble in dealing with my colleagues who think they are taxed and who, of course, see their critics in estimates who immediately say to my friends the Minister of Education (Mr. Conway) or the Minister of Health, "Not enough money has been allocated to what you are doing in your ministry." We have that adjustment problem, and I am delighted to hear what you and Mr. O'Connor have agreed on, that by and large the administration of justice requires a greater resource. Regrettably, it is probably only going to come from increased taxation.

Ms. Gigantes: We will return to this point, I am sure, but it certainly helps me to understand the overall adjustment I need to make mentally when I consider these estimates and also to

understand some of the other figures that will be before us as we go through the votes.

Hon. Mr. Scott: As we move forward, I would make only one comment on your comparison with the Ministry of Correctional Services. You observed that justice is $308 million and corrections is $315 million.

Ms. Gigantes: It is $313 million.

Hon. Mr. Scott: You can make that comparison even more pointed by showing that only a portion of the $308 million is utilized to put those correctional fellows in place in correctional institutions. This is just a guess, but I estimate no more than half our budget is devoted to that exercise.

There are many parts of our budget, the advising of government on general legal matters, the provision of civil legal advice to the Ontario Law Reform Commission and a wide variety of things which do not create that clientele for corrections at all. To house them would probably cost twice what it cost to put them there.

Ms. Gigantes: Got you; in fact, much more is what you are suggesting.

Under the first vote, because it seems an orderly way to proceed, can I ask briefly for a further discussion of developments in the field of access enforcement and what kind of consultations the minister expects to go through before he is going to unload a bill on us.

1740

Hon. Mr. Scott: My concern about access enforcement arose out of the hearings in support of the family law bill, in which a number of groups came forward and expressed concerns about access which I summarize in the following way: they were often, though not always, husbands who had either agreements or court orders that permitted, indeed required, access to their children.

In cases where access had been withheld or denied, an application to court was not a useful process. Why? The court de facto had two remedies: to put the custodial parent, usually the wife, in jail; or to fine the custodial parent. A fine as a remedial order was less than useful. All it meant was limited funds were even further reduced, and jail was an inappropriate penalty.

The case was that, in those circumstances, there was not much the provincial judges could do for us, even if they thought the interest of the child had not been respected by the improper withholding of access. We then looked to see if there was not something that could be done, not in terms of increasing penalties but in terms of seeing to it that in an appropriate case, where access was wrongfully withheld and where it was against the interests of the child to withhold that access, a penalty other than jail or fine could be devised.

One of the penalties that one looks at if one goes to the American jurisdictions is what is called makeup access. If you deprived me improperly of access for three hours last Saturday and that is against the best interests of the child, you may have to make up that access next Saturday. That is essentially what we were looking at. The policy division of the department has the examination under way. We have met with a number of women's groups to discuss the matter, and we have met with a number of noncustodial parents' groups to discuss the matter. I will be taking forward to my cabinet colleagues some views about this in due course.

Mr. Chairman: A supplementary from Mr. O'Connor and then back to–

Mr. O'Connor: It is on the same subject. I would ask my colleague to complete her questioning, and then I have some questions on the same subject.

Ms. Gigantes: May I ask the minister what he considers due course? I am concerned about the matter.

Hon. Mr. Scott: I really do not know that I can tell you that. We have met with a number of groups, and we are thinking about what they have told us and doing some supplementary work that we think their comments justify.

Ms. Gigantes: Can I ask what research has been gathered by your policy division to indicate that, apart from anecdotal evidence or submissions by aggrieved groups, there is really a problem in this area?

Hon. Mr. Scott: We have talked to people who are professionals in the field and we have looked at the experience in the written material in the United States. We have not done any survey to assess the extent to which there is a problem.

Ms. Gigantes: Can you provide us with materials that your policy division has gathered on this subject?

Hon. Mr. Scott: I will consider that. I do not think it is our usual practice to do that. Frankly, my view of the matter is that if there are cases where it is in the interests of the child to have access which has been improperly withheld and for which there is no appropriate remedy now, I am not terribly concerned about the number of those cases; the existence of any of them would concern me.

Ms. Gigantes: If there are cases in which one can establish the improper withholding of access, it may well point to a case where the question of custody should be raised.

Hon. Mr. Scott: That is one view, but it seems to me it is not a view that is widely shared. The theory is that if a mother improperly withholds access, one of the appropriate penalties is to deprive her of custody. I think that is overdoing it. It is imposing a penalty that is out of all proportion to the nature of the offence.

Ms. Gigantes: I just wonder how you would find out whether access has been unjustifiably denied without having a hearing.

Hon. Mr. Scott: You find out exactly the same way you find out now. We are not proposing any significant change in the law which permits an access parent to go to the court and say that access has been wrongfully withheld. That happens now every day. What we are proposing is no change in that, or no significant change. We have a couple of form changes, but no significant change in the process by which the judge hears the evidence and makes the determination. What we are saying is that when he makes the determination, there may be room for a penalty different from a fine or jail for the custodial parent.

Ms. Gigantes: You say you are not sure whether you will be able to provide to us background materials that have been gathered for your consideration on this. I am not looking for cabinet documents or anything like that; I am looking for whatever material you have that indicates the effectiveness, the usefulness, the fairness and the benefit to children in other jurisdictions that we talk about.

Hon. Mr. Scott: Let me deal with the last question, the benefit to children. When it makes an access order, the court is obliged by law to consider the benefit to the child. In making an access order, the court has determined that access is to the benefit of the child. Access is given not merely for the parent. The prime concern of the court is the wellbeing of the child.

Our position is that when the wellbeing of the child, in the view of the court, is affected by the refusal to grant access properly, it is inappropriate to say to the custodial parent, "You have to go to jail." That does not solve anything. It is completely irresponsible.

Ms. Gigantes: I am not suggesting that.

Hon. Mr. Scott: Also, of course, the point is that the judges will not do it, because they see it to be completely irresponsible.

Ms. Gigantes: When an access order is made is one point in time, and it may be a point when there is absolutely no reason for a judge to refuse access to a noncustodial parent. The reasons for refusal to provide access may build over time and may create the situation in which access is denied and may require measures other than some kind of automation to the system. Do you understand what I am saying?

Hon. Mr. Scott: Yes. May I suggest this? I will try to find the information you want. When and if we make a policy determination about this and bring forward a bill, it seems to me that bill will go to committee and should be fully canvassed. I will be delighted, now or then, to respond to all these questions.

The concern I have on both sides of this issue is that there is a sense out there, which is quite wrong, that some kind of draconian or unusual change is about to occur. We are not contemplating changing the very process that now exists that will determine whether access is wrongfully withheld.

What we are considering is whether there is another remedy–it is not even a penalty; I do not regard a makeup access as a penalty–that will discourage wrongful denials in the future because it will show them to be useless, in effect, and will give to access parents some reasonable measure that approximates what the court said they were to get by way of access.

Ms. Gigantes: I would be very interested in seeing what kind of material has been gathered in this area of policy.

Hon. Mr. Scott: We will see what we can do.

Ms. Gigantes: Can you also indicate, at the same time–

Mr. Chairman: Before you leave that, would you allow a supplementary to Mr. Cooke?

Ms. Gigantes: Yes. May I ask another question on the same matter?

Mr. Chairman: Yes, and then you can move on to your supplementary, Mr. Cooke.

Ms. Gigantes: I have two, actually. Do you relate this question in any sense to the proposals that have been raised from time to time about mandatory mediation in a marriage breakdown or shared custody as a primary concern?

Hon. Mr. Scott: No, I do not relate them to those at all.

Ms. Gigantes: Would it be possible for us to obtain from you a list of the women's groups you have consulted on this subject, please?

1750

Hon. Mr. Scott: I think no. They have consulted with me. I would have to canvass them to determine whether–

Ms. Gigantes: I am willing to wait.

Hon. Mr. Scott: I will think about that. I do not know that it is either right or necessary for me to provide to you or indeed anybody else a list of people who have exercised their right to come to see me about an issue. I will think about it–and maybe I should–but I have not addressed that question before.

Ms. Gigantes: I can go at it in another way, which is to come to you every time I hear from such a group and ask whether you have met with them. It might save you trouble the other way around.

Hon. Mr. Scott: There is a limit to what I will do to save myself trouble, although we have not yet approached it.

Ms. Gigantes: Good.

Hon. Mr. Scott: Let me think about that.

Ms. Gigantes: Sure.

Hon. Mr. Scott: I have not thought about that question before. To begin with, I would feel obliged to get the consent of those people.

Ms. Gigantes: Absolutely.

Mr. Chairman: Mr. Cooke, we are on the same subject. Yours is a supplementary to this one and Mr. O'Connor wants to extend this subject, so I will go to you.

Mr. O'Connor: It is a supplementary.

Mr. D. R. Cooke: All right.

Mr. Chairman: I asked you if it was a supplementary and you said you wanted to wait until Ms. Gigantes had concluded her questions.

Ms. Gigantes: He was very polite.

Mr. Chairman: I will go to Mr. Cooke. We have only about 10 minutes.

Mr. D. R. Cooke: What I am raising is more a point of information. I want to inform Ms. Gigantes that there is an excellent research document done by our own research library–it is obviously available to all members–on what is being done in this area in other jurisdictions. The state of Michigan has set up a custodial office, shall we say, where an alleged aggrieved party can launch immediate complaint and immediate mediation begins.

Ms. Gigantes: So it is mandatory mediation.

Mr. D. R. Cooke: No, not necessarily, but mediation hopefully will begin at that point so it does not get bogged down in the problems of going back to court. If, for instance, the custodial parent says the child was sick and the noncustodial parent says he was not sick, some of the facts can be investigated quickly on that point, as opposed to trying to ferret them out six weeks or longer afterwards in court.

That may or may not work well, but I imagine that the Attorney General would be investigating that situation. One of the complaints that some of the noncustodial parents have about that system is that almost all the officers in Michigan are women. It may be that is suitable in any event.

Hon. Mr. Scott: Let me begin by saying, first, that I am not talking about anything that approaches mediation, least of all compulsory mediation. I am not persuaded that we are at a stage where that process should be imposed in Ontario, for a variety of reasons which we can turn to later. It seems to me it is an impediment to weaker parties; it is expensive; it is a system that operates where the criteria professionalism is very vague to say the least, so I am not sold on that kind of exercise at this stage.

At the moment, I am not concerned to look seriously at altering the basic fact determination that now exists in Ontario to determine whether the child was sick. There is a system in place that, for a generation, has determined that to the general satisfaction or dissatisfaction of everybody. I do not propose to alter that. I am simply looking at how we can invoke not a new penalty but a new remedy when the facts established under the current process are made out, and a remedy that will be responsive to the needs of both parents. In my opinion, it is not a traumatic major reform, although it is an important one.

Then you come to the question of data. The problem is not so much collecting data, although that is a bit of a problem because you have to have money and resources to collect it. The problem is to know what to make of it when you have it.

For example, in Michigan where they have had remedial makeup orders, there is some evidence that, in certain counties, very few such orders are made. That is a fact. That fact is used by both sides to make their point: by one side to illustrate that you do not need remedial orders because they are rarely made, and by the other side to illustrate that they are rarely made because the presence of them is so effective that it has reduced the breach of access orders. The raw material is only the start of the problem; how you interpret it once you have it is the major difficulty.

Mr. D. R. Cooke: In some cases, would not the existence of mediation obviate the need for remedial orders?

Hon. Mr. Scott: It might, but I do not see this exercise as one designed to create another layer of negotiation or decision-making. Some parties to the marriage contract tell me that is desirable. Other people tell me it is not desirable, that is just puts another impediment in the way of someone who wants to exercise his or her rights.

If mediation is accepted freely by both parties, I am in favour of it and believe it has a reasonable chance of working. I am very troubled about cases in which it is imposed on an unwilling party.

Mr. D. R. Cooke: If it is the case then that what you are considering involves going back to court in any circumstance, would you be prepared to consider amending the legislation so that the jurisdiction of the judge becomes of as little importance as possible in order to permit quick return to court?

Hon. Mr. Scott: We are considering that kind of general question, and I think what we come up with may address that.

Mr. O'Connor: I am interested in the minister's comments. I agree with him that draconian methods of enforcement such as jail or fines do not work, have not worked and will not work in the future, and we should not be looking towards them.

I have some real concerns and reservations about makeup or stacked access, as it is sometimes called. Michigan is the only state in the US where it is being used, and some recent studies out of Michigan indicate that really does not solve the overall problem. The reason it does not is that you are doing nothing to alleviate the hatred or animosity that exists between the parties and which was the cause that resulted in the denial of access.

It is not always an arbitrary denial by the custodial parent, who may legitimately perceive that she has reasons for doing so. To stack access only exacerbates the situation, because it means she then has to give up the child twice as often in the future as she did in the past, when she does not want to do so at all. I suggest you are going to hear from a lot of groups of practising lawyers in the profession and social workers in the field that the mandatory mediation route is the way to go. It is used in California and other states, and it is working quite significantly. As opposed to stacked access, it gets to the real root differences between the parties that makes them come to a–

Hon. Mr. Scott: I do not think the member for Ottawa Centre is listening to this.

Mr. O'Connor: She can read my remarks.

Hon. Mr. Scott: I would not want her to miss this.

Mr. O'Connor: It makes the parties sit down in a room together with a skilled mediator, and that is the key to it. If the mediator is skilled and can break down that barrier or wall of hatred between the parties and begin to get them talking to each other, eventually a lot of the problems between them can be alleviated and access might run a little more smoothly. You are always going to have the hardest-core cases, a small percentage, who will never talk to each other and will not succumb to even the most skilled of mediators. However, I would think in the wash-out at the end that would be very few people.

I think you are going to hear a lot more from people in our system that mandatory mediation is the route to go, and I am somewhat chagrined that you seem to have rejected it out of hand. Perhaps you should not have done so.

Hon. Mr. Scott: I will certainly be very pleased to look at anything you have to provide on the subject. I think you will find the California system is not mandatory mediation in the sense you are describing.

Mr. O'Connor: Sure it is.

Hon. Mr. Scott: It is not imposed on everybody.

Mr. O'Connor: It is a discretion of the court to impose it.

Hon. Mr. Scott: One of the questions the court asks is, "Are you willing to submit to this?"

Mr. O'Connor: Yes, it does.

Hon. Mr. Scott: That is what I call voluntary mediation.

Mr. O'Connor: What the court does is first give them the opportunity to submit to mediation voluntarily.

Ms. Gigantes: There is an an element of involuntariness about that.

Mr. O'Connor: No. That gives them the opportunity to voluntarily submit to mediation. If the problems persist and they refuse to do it, then the court can order it.

Hon. Mr. Scott: I guess I am in between the two of you because, while I would regard the question "Are you willing to submit to it?" as approaching voluntary mediation, the member for Ottawa Centre says that very question posed by a judge from halfway up the wall down at the parties has an intimidating effect that induces mediation when it is not voluntary at all.

Ms. Gigantes: That is right.

Mr. O'Connor: He can order the final result in California.

Ms. Gigantes: Yes. I have a tiny comment. I think what is being proposed is to set back family law very seriously in terms of the representation of the interests of women in family law.

Hon. Mr. Scott: What he proposed or what I proposed?

Ms. Gigantes: What he proposed, and I do not even like the way you are discussing this.

Mr. Chairman: We are running out of time. As you know, this committee concludes its deliberations at six o'clock. If there are brief questions, I will go back to Ms. Gigantes. If you have a quick question we can get a quick response; then we will have to conclude.

Ms. Gigantes: What about the political rights of public servants?

Mr. O'Connor: On a point of order, Mr. Chairman: I think that clock may be wrong. I have 6:03 p.m.

Ms. Gigantes: The bells did not ring.

Mr. Chairman: Did the bells go?

Interjection.

Mr. Chairman: Go ahead. We are hearing bells here.

Ms. Gigantes: You are ahead of our time.

Hon. Mr. Scott: On political rights, I am very embarrassed because the chairman of the law reform commission is here. With my urging he went bells and whistles at it and produced this report in very fast order. It came in July 1. It is in our policy division. The representatives of the policy division are present and will take note of your anxiety that it should exit the policy division at the earliest possible time.

Mr. Chairman: Perhaps we could make use of the balance of our time by attempting to determine what staff members should be here tomorrow. That is not to say others may not want to attend, but I presume you did want to talk about the legal aid system and I presume Mr. Breithaupt will be here tomorrow.

Hon. Mr. Scott: I do not know that he knows anything any more about the legal aid system, but we would be delighted to have him. He certainly knows how to run these committees; not that you do not, Mr. Chairman.

Mr. Chairman: Thank you.

Hon. Mr. Scott: You are a model in every way.

Mr. Chairman: Your endorsement strikes me right in the heart.

Hon. Mr. Scott: It is embarrassing.

Mr. Chairman: Is there anything further that we should bring up before we adjourn?

Mr. O'Connor: Tomorrow I would like to talk about witness assistance programs, victim impact statements and reports, and Bill 181, to name a few.

Ms. Gigantes: That suits me fine. If we could also have discussion of legal aid, that would be great.

Hon. Mr. Scott: Bill 181?

Mr. O'Connor: Is that not the bill that fixes judges' retirement age at 70?

Hon. Mr. Scott: Probably, yes.

Mr. Chairman: Do any of the government members wish to make a comment with respect to what you want for tomorrow before we adjourn?

Mr. D. R. Cooke: I believe the minister and the deputy are so competent that I do not think we need any of these–

Mr. Chairman: That is not the kind of comment I was looking for, Mr. Cooke. I knew you were going to give us an editorial comment, but I was looking for some guidance as to the individuals you might want to see here tomorrow.

Interjections.

Mr. Chairman: Minister, did you hear that? This is the question that Mr. O'Connor raised earlier about your budgetary items on staff and increases.

Before we adjourn, I would like to advise the members of the committee that we will be in the television room tomorrow, room 151, right after routine proceedings. Wear your appropriate clothes.

The committee adjourned at 6:04 p.m.

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Ontario

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Legislative Assembly of Ontario

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney-General

Second Session, 33rd Parliament
Tuesday, January 27, 1987

Speaker: Honourable H. A. Edighoffer
Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, January 27, 1987

The committee met at 3:52 p.m. in room 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1101, law officer of the crown program; item 1, Attorney General:

Mr. Chairman: Members of the committee, we are pleased to have the Attorney General (Mr. Scott) here. We can get under way with the estimates, which we started to pursue yesterday. We will continue with vote 1101. The opening statements have been made by the Attorney General and the respective critics. At the time we adjourned, we were involved in questions. I will now turn again to questions.

Mr. O'Connor: At the outset, may I go back to the one issue I began to get into yesterday? At that time I was asked to defer it until today so the minister could get some information. Again, under item 1 of vote 1101, on page 13 of the estimates briefing book, there is an indication under the first category, salaries and wages, of an increase in that category for this year of $242,700. The explanation indicates it is "Salary revisions–regular and unclassified staff. Additional contract staff." I wonder if the minister can advise us how many additional people that includes and the salary classifications they hold.

Hon. Mr. Scott: I cannot give you the names and the bodies today. We can tell you that last year's estimates were prepared by the minister of the day, Mr. Pope, for the administration of his office. You will see that the actual expenditures last year for the office were greater than the estimates. That was a function of the fact that I had three ministries and Mr. Pope had only one. The office staff recorded in these estimates includes, for example, the special assistant I have for native affairs and the special assistant I have for the Ontario women's directorate. This includes essentially the entire office staff for a minister running three ministries.

You will also recall that your colleague the member for Simcoe East (Mr. McLean), raised a question in the House about why they were so badly paid. The reality is–and he made the point in the House very effectively and somewhat embarrassingly to me–that my staff were lower paid than the staff of any other minister in government, which raised a pay equity question in his mind. It got a lot of publicity in the paper when he raised that. That, of course, is true. They are lower paid than staff in other ministries. In fairness, we are trying to remedy that. For example, our media person, who I think is present and looking poverty stricken, is lower paid than media personnel in other offices.

We can provide the names tomorrow, but that is the explanation for the discrepancy.

Mr. O'Connor: I already have them. I do not know that it is the explanation.

Hon. Mr. Scott: It is the explanation I am giving you.

Mr. O'Connor: I know you have estimates and a budget for each of the two other ministries for which you are minister. Those estimates and budgets include salaries and wages for personnel in your office under those estimates. Why, then, have you got women's issues and native affairs people under here?

Hon. Mr. Scott: That is not accurate. Do you want to be accurate?

Mr. O'Connor: Why would you not have your special assistant for native affairs in the native affairs budget?

Hon. Mr. Scott: It was not done that way. You may say you prefer to have it done that way, and I will consider that. There was no duplication. It was simply decided that the bulk of the personnel in the minister's office would be assigned for estimates purposes to the estimates of the Ministry of the Attorney General, which was done. We could have done it the other way. It would not have altered any figures. It simply would have meant the question was asked on different estimates.

Mr. O'Connor: My next question is, if the difference is because of special assistants Irwin and Spiegel in women's issues and native affairs, respectively, the total of their two salaries is $65,000, according to this sheet. The difference I am trying to find is $242,000.

Hon. Mr. Scott: Let me put it this way.

Mr. O'Connor: Do you want to borrow my copy of your salary list?

Hon. Mr. Scott: You must let me explain. A minister's office is a combination of a number of staff people, including legislative assistants, secretarial people, stenographic people and mail room people in the case of the Attorney General's department, because in our ministry the minister's office does the mail, not the deputy minister's office. So each ministry has a number of people who work for the minister in that context. That is true of the women's directorate and of native affairs. It is not correct to say, therefore, that the non-Attorney General component is simply two people. It is two legislative assistants and the other support staff, secretaries and stenographers and so on who go with running those ministers' offices.

That accounts for it. The three ministries' offices are run into this estimate. If you look at the list that is at page 13-1–you do not have that. I can count up the names; I can give you the names.

We have a full staff, which is receptionists and secretaries, who deal with all ministries, and I can give you the names and the totals if you want.

Mr. O'Connor: I have that.

Hon. Mr. Scott: All right. If you have it, that is fine.

You will be interested to know that Mr. Pope, when he was the Attorney General, had six assistants. You will be interested to know that Mr. Timbrell, when he was the minister responsible for women's issues, had five assistants. You will be interested to hear that–

Mr. O'Connor: No, I am not interested at all in hearing that. We are not doing their estimates. They have not been in government for two years. We are doing your estimates.

Hon. Mr. Scott: You may not want to hear it, but what I am trying to show you is that in running three departments, I have a smaller staff than did three ministers under the old government running separate departments, each with its own salaries and its own staff. For better or worse–you may not like it–you are getting one minister to do three jobs, and you are getting him with a staff that is smaller than your three ministers had, in total.

Mr. O'Connor: So that when we come to examine the estimates of women's issues and native affairs–

Hon. Mr. Scott: We have done them.

Mr. O'Connor: –we will not find similar categories of staff salaries.

Hon. Mr. Scott: That is correct.

Mr. O'Connor: I have not seen them and I did not do them. All right; fine.

The last question with regard to salaries, then, is the executive assistant level. As I understood it, and if you want to compare old and new governments, under the old government there was a cap of $35,000. I see that the cap on your executive assistant is $61,000. Is that correct?

Hon. Mr. Scott: No.

Mr. O'Connor: No?

Hon. Mr. Scott: It does not tell the story.

Mr. O'Connor: Oh; tell us the story.

Hon. Mr. Scott: The story was that there was a cap under the old government, and the cap, annually, has increased. The cap, I think, has moved from the figure you gave to $60,000.

Mr. O'Connor: From $35,000 to $60,000 in a year and a half?

Hon. Mr. Scott: Yes. The interesting thing is that Mr. Pope never honoured the cap. He paid his executive assistant $59,000, which was, at that time, far in excess of the Conservative government cap and far in excess of the highest-paid executive assistant in the entire government.

Mr. O'Connor: I think that is shameful, and I agree.

Hon. Mr. Scott: No; it shows–

Mr. O'Connor: All I am asking you is, will you agree that the cap that was on previous executive-assistant-level salaries under the old government has been doubled, or thereabouts?

Hon. Mr. Scott: The caps are not fixed by me. What I want to emphasize to you–and if you want to get into this kind of stuff, let us have it all out–is that Alan Pope, when he ran this ministry, exceeded the cap his own government set and had the most expensive executive assistant in government, whose name–we do not need his name. You know who he was.

Mr. O'Connor: No, I do not.

Hon. Mr. Scott: There he was. Now we have complied with the cap. The cap has increased, but a lot of salaries have increased in the last three years.

Is there any other stuff you want to get into before we get on to the–

Mr. O'Connor: Now look, it is our obligation as the opposition to question the expenditures of your ministry, and I do not think you have to be testy.

Hon. Mr. Scott: Your leader is out there today accusing me of having an ex-employee

who was on the staff of some advertising agency to whom a contract had been let. He would not give the name; he would not give any details. He was content simply to make the charge, and it is garbage. You may be able to work this on some other ministers, but I will not take it.

Mr. O'Connor: You keep trying to change the subject. Our obligation as members of the opposition is to question figures where there is a $250,000 increase in your personal staff. You have given me an explanation. I did not say I disagreed with it. The book certainly does not explain it.

As your deputy said to you in the course of a conversation, "They do not have that page." If you gave us all the pages, which might explain that in advance, I perhaps would not have had to ask the question.

1600

Hon. Mr. Scott: Your leader today in a press conference–

Mr. O'Connor: There is no explanation in here about Indian affairs or women's issues whatsoever.

Hon. Mr. Scott: Do you want to hear about Grossman's–

Mr. O'Connor: No, I do not; we are not talking about Grossman. We are talking about your estimates in this committee.

Hon. Mr. Scott: I do not want to either, but in a press conference today, he asserts–

Mr. O'Connor: What has that got to do with your office?

Hon. Mr. Scott: He speaks of me as Attorney General and he asserts that an advertising contract has been granted by the Ontario women's directorate. He says it was granted to a firm, a principal of which is an "ex-employee of Scott." He tells the press that, and that is designed to do the sort of stuff that has been going on. It is garbage. He cannot name a name; he cannot back it up; he cannot do anything.

Mr. O'Connor: I do not know anything about that.

Hon. Mr. Scott: It really irritates me.

Mr. O'Connor: I am faced with an estimate that shows about a 70 per cent increase in your personal office staff with no other explanation.

Hon. Mr. Scott: I have no bone to pick with you.

Mr. O'Connor: Should I not ask questions? You have given us explanations.

Hon. Mr. Scott: I have no bone to pick with you.

Mr. O'Connor: We are dealing with public money. We are entitled to air this publicly before a committee such as this.

Hon. Mr. Scott: You have always done it with considerable integrity.

Mr. O'Connor: I still do it with integrity. You have given me an explanation, which I accept.

Mr. Chairman: The chairman has shown some considerable degree of patience in this entire exchange. Mr. O'Connor, could you pursue your line of questioning, which I would have to indicate to you is totally relevant to our undertakings on this committee in that it deals with the financial expenditures of the Attorney General? I wonder whether the Attorney General might restrain himself with respect to his responses to Mr. O'Connor.

Hon. Mr. Scott: I should, Mr. Chairman, but it is hard to take. It is not his fault; it is his leader's fault. I will do my best.

Mr. Chairman: There will be another forum and another day when you can certainly take up this issue up with the gentleman you mentioned just a few moments ago.

Mr. O'Connor: To calm the waters, I will pass the buck to my confrère in the New Democratic Party and come back to other issues afterwards.

Ms. Gigantes: Yesterday I indicated I would be interested in having more information from the minister and staff of the ministry concerning the initiatives that are being taken in the area of victim-witness assistance. I would like to know what is happening in terms of witness protection. Are there policy initiatives going on in that area?

Hon. Mr. Scott: What page is that?

Ms. Gigantes: I am dealing with it under vote 1101, item 3, policy development. I do not know whether that is an appropriate area in which to deal with it, but these are pilot projects.

Hon. Mr. Scott: I would be prepared to deal with the impact statement project when you come to that. Perhaps, Susan, you can deal with the victim-witness program.

Ms. Lee: What is the format? Shall I wait for questions?

Hon. Mr. Scott: I think Ms. Gigantes would like you to describe what has been happening. Am I correct?

Ms. Gigantes: Please do.

Ms. Lee: I am putting together for the ministry 10 pilot projects in 10 crown attorneys' offices across the province. The purpose of these pilot

projects is to provide more comprehensive service to victims and witnesses to assist them in understanding their participation in the criminal justice process. These projects will be located in Etobicoke, North York, Windsor, London, Hamilton, Kingston, Ottawa, Pembroke, Sudbury and Kenora.

Each project will be somewhat different in that when the staff are hired–and I hope to have the staff hired by April 1 of this year–they will look into what has been going on in each community. On the basis of what they find is going on with respect to services for victims and witnesses, they will develop a locally appropriate court-based service. They will work in conjunction with those services that already exist.

These people will also be recruiting and training volunteers to assist them in giving out general information about the criminal justice system. There will be one full-time staff person in some areas and one part-time staff person in other areas who will be operating this project under the direction of the local crown attorney. That full-time or part-time person will be available to deal with the particularly vulnerable victims: that is, victims of domestic assault, sexually abused children and physically abused children.

Ms. Gigantes: Would you consider this mainly a project addressed to family assault?

Ms. Lee: No; all victims of crime. The money came out of the family violence initiatives, the $5.4 million that was given to 11 agencies in the government. The mandate of this one is to deal with all victims of crime.

Ms. Gigantes: So there are separate budgets. There is one budget that deals with family assault, victim assistance, and there is another budget that–it is all one budget.

Ms. Lee: For the attorney's office it is all one budget, and they will all be dealt with by this person who works in the local courthouse.

Ms. Gigantes: The allocation on that item is $442,000, if I understand the information I was given after the women's directorate estimates.

Ms. Lee: That was for half of this year, which was September to April; so it is approximately $900,000 for next year, from April 1 to March 31, 1987.

Ms. Gigantes: Where would I find that in the briefing book? I have looked without finding it.

Ms. Lee: It is under the criminal division.

Hon. Mr. Scott: Are you looking for the line?

Ms. Gigantes: Yes, I am looking for a line. It always irritates me not to find the line for a program like this.

Hon. Mr. Scott: It is an in-year approval.

Mr. Peebles: Yes, that is right.

Ms. Gigantes: It is not in there.

Mr. Peebles: Yes, that is right. Because the funds came to us during the year, they would not have been shown in these estimates that were put together about this time last year.

Ms. Gigantes: On items of this nature, I am wondering whether we could have some kind of line-by-line breakdown as a matter of course when there is a large announcement of the type we had in September. I would have found it interesting, for example, when I received the information after the women's estimates, to be told it was going to be a $900,000-a-year budget item as opposed to the information I had, which apparently covers September through April.

Hon. Mr. Scott: I think we should be able to do that. As I understand the problem, the estimates have to be tabled within a certain time of the budget, and any in-year approvals are not found. I understand your exasperation. It seems to me that we should be able to supplement these estimates in some fashion so they are intelligible for you. I am not quite sure what other ministries do with that kind of circumstance in which we have to supplement estimates that have already been filed. We should certainly be able to do something in that case.

Ms. Gigantes: That would be very helpful, and I very much appreciate it.

You will be talking about–

Mr. Chairman: Are you leaving this topic?

Ms. Gigantes: Yes.

Mr. Chairman: Mr. Cooke has a supplementary.

Ms. Gigantes: I have a couple of further questions, if I could, to help me figure out what the budget is.

Mr. Chairman: All right. Mr. Cooke passes.

Ms. Gigantes: We were talking about $900,000 in a program that will be operated out of 10 attorney generals' offices.

Ms. Lee: Crown attorneys' offices.

Ms. Gigantes: Yes; one Attorney General is enough. So we are talking about roughly $90,000 in each office, or how is the money divided up?

Ms. Lee: There will be six projects that will be operated with a full-time staff person and there will be four projects that will be operated with a part-time person. I did not bring the breakdowns of those, but the full-time co-ordinators will make approximately $30,000 to $32,000, and

then there will be some support staff given to them. In addition, there is money in that budget for restructuring offices, buying furniture, paying for telephones and that kind of thing. I cannot tell you exactly what each will cost, but that is the way the budget is put together.

1610

Hon. Mr. Scott: The point is that the units are not the same size.

Ms. Gigantes: I understand, but could we get some kind of picture from you about what the allocations will be in various areas? As I understand it, the program is due to last 18 months and then be evaluated.

Ms. Lee: It will be evaluated during its life. The valuation will end on March 31, 1988. The 18 months refers to the time when the money was originally given, which was September 1986.

Ms. Gigantes: So it will actually run effectively about a year?

Ms. Lee: About a year. Some are beginning now. We have started one, but I am going to prepare–

Ms. Gigantes: Will this be–

Hon. Mr. Scott: Ms. Gigantes, we can get you an estimate for each of the 10.

Ms. Gigantes: I missed the names of the centres. Will there be a relationship between this program and the York district pilot that has to do with victim impact statements, or is that separate and apart?

Ms. Lee: The two people we hire in Toronto will assist any victim who wants to fill out one of those forms, but it is separate because–Mr. Scott can talk about it–it is done at the point where an arrest is made. The victim is asked to participate in the system at that time. If victims who have filled out a form need some assistance when they become involved in the court system they will be assisted, but it is a separate project.

Hon. Mr. Scott: They really are separate projects.

The victim impact statement project is designed fundamentally to be initiated by the police. The police will make the arrest, identify the victim and then provide the victim with an opportunity to participate in the program by utilizing his or her own words to describe on a statement the impact of what happened to him or her. In exercising that right, which is optional, the victim can get the assistance of any person to whom the victim wants to turn.

Ms. Gigantes: I understand.

Hon. Mr. Scott: It would be natural and not unexpected that he or she might get the assistance of someone in the victim witness program.

Ms. Gigantes: Do I understand that what we are talking about here is an immediate policeman interview of the victim?

Hon. Mr. Scott: No, it is not really an interview. It is a scheme in which a statement form is provided to a victim and the victim is asked to participate by providing a statement. There is a list on the form of certain things the statement might include.

Ms. Gigantes: Could we get copies of that? I am really quite interested in this whole process.

Hon. Mr. Scott: Yes, I can give you the victim impact statement, which is a four-page document. It asks four questions and then says, "If you need additional information," and there is the last page. The four questions are headed: "Physical injury: Please list the injuries, the treatment," and so on, "Property loss; Financial loss," "Personal reaction," and then, "Any other comments or concerns you would like to express."

The purpose of this is not to permit or require the police or crown attorneys to interview the victims–the point has been made, and no doubt with good reason, that the interview process has not always been effective and sometimes is intimidating–but to allow the victims to describe what has happened to them in their own words and in their own way with whatever assistance they choose to get.

Ms. Gigantes: The statement is to be completed and returned within 10 days of receipt.

Hon. Mr. Scott: Yes.

Ms. Gigantes: And it is given to the victim immediately.

Hon. Mr. Scott: As soon as the contact is made. Then it is turned over to the crown attorney. It becomes part of the file of the case, and the crown attorney can use that information either in preparing evidence or submissions for the sentencing process, or by putting it as a statement directly before the judge.

Ms. Gigantes: Could I ask whether the minister or any of the staff here have followed the development in–I wish I could remember the name of the town in upper state New York where they have gone into a process called community sentencing.

Hon. Mr. Scott: Did you hear this on the radio?

Ms. Gigantes: That is correct. About three weeks ago on Sunday Morning.

Hon. Mr. Scott: Yes. I find it very interesting.

Ms. Gigantes: Do you have any additional information?

Hon. Mr. Scott: I heard the radio program and I have the tape. I have made some inquiries about it, but beyond that I have not gone. It is a very interesting project.

Ms. Gigantes: If you would be willing to share the information you receive–

Hon. Mr. Scott: When we get it, I would be glad to.

Ms. Gigantes: That would be great. Thank you.

Hon. Mr. Scott: I think the key here, though, which many commentators have overlooked, is our desire to allow the victim to do this without passing through our sieve, without being interviewed by a police officer.

Ms. Gigantes: Do you mean the victim impact statements?

Hon. Mr. Scott: Yes.

Ms. Gigantes: I understand.

Mr. O'Connor: I had some questions of Ms. Lee, but since we have gone on to the victim impact statement situation, I was curious, to say the least, when the minister announced 10 days ago, with a great deal of flourish, this so-called pilot project for Metropolitan Toronto whereby the victim impact statement would be taken in appropriate cases. Of course, the press reported it as something new, significant and interesting.

The reason I was curious is that this program exactly has been going on in Halton, in Oakville, for four or five years. I have copies of the victim impact reports and the instructions for the police officers of the force on how they should interview the victims and fill in the reports and so forth.

I am wondering why the minister took the time to perpetrate such flim-flammery on the poor, unsuspecting Toronto press who will, of course, dote on his every word when he speaks to them, particularly the Toronto Star, in a manner as if this was something brand-new.

Hon. Mr. Scott: Could I see the statement?

Mr. O'Connor: Sure. Right here.

Ms. Gigantes: Do I understand that these are conducted by the police?

Mr. O'Connor: Yes. They are.

Ms. Gigantes: Then this is a different kind of thing.

Hon. Mr. Scott: This is the whole point of it.

Mr. O'Connor: It is a program that has been going on. Why would he not simply contact the Halton Regional Police to see how it has been going in Halton and how they have been doing it? As a crown attorney there, I can tell you it has been highly successful and it has been used, as I say, for some four years.

Hon. Mr. Scott: The important difference that Mr. O'Connor has overlooked is that our program is entirely different.

Mr. O'Connor: It is not entirely different. Your form is longer but there is nothing else different about it.

Hon. Mr. Scott: You are entitled to say what you think about it, and I am glad to hear that, but the Halton program is a program in which the police are invited to investigate and to interview a victim. It is the police who make the statement. You can see it is signed by a police officer. It is not signed by any victim.

The criticism of that process that victims have made all across North American is that they become victims accidentally. They are assaulted, they are attacked and they become victims. They then find themselves in a web, a well-intentioned web, run by police and crown attorneys in which they are interviewed time and time again and what they say is summarized and written down.

What the victims' groups have been saying–and we have been trying to listen–is, "We never get the chance to say anything in our own way, in our own words." That is a legitimate, appropriate concern that the Halton project does not deal with at all.

Mr. O'Connor: Yes, it does. I am sorry to interrupt, but it does.

Hon. Mr. Scott: That is what our victim witness impact statement is designed to do.

Mr. O'Connor: I can tell you, though, that as a matter of practice in Halton our crown attorneys call the victim–I cannot tell you how frequently but sometimes, perhaps often–and they are involved in the sentencing process as a result of that statement having been taken. Perhaps Mr. Martin, the director of crown of attorneys, who is here, can confirm that.

Hon. Mr. Scott: We will certainly look into it, but that is not what the form envisages. It envisages that the police officer will make a statement and it has a place for his signature. We have lots of projects and lots of circumstances in

which police officers make statements, and we will continue to do so.

This project is designed to encourage and allow the victim to make a statement that will become part of the court file and that will be available to the judge, if appropriate, in the victim's own handwriting. That is what you call the flim-flammery.

Mr. O'Connor: May I ask some more perhaps substantive questions on the victim witness program?

Mr. Chairman: In the interest of taking these in rotation I would like to move to Mr. Cooke. Then I will have to go back to Ms. Gigantes to try to equalize the time.

Mr. D. R. Cooke: Are we dealing with supplementary questions?

Mr. Chairman: Yes.

Mr. D. R. Cooke: This is for clarification, for the record, I suppose. The victim impact statement is in the hands of the crown attorney at the sentencing process, and it is his decision whether to place it before the judge. Is that correct?

1620

Hon. Mr. Scott: Yes, in the sense that the crown attorney has to make a judgement about whether there is any legal impropriety to placing it before the judge.

There is another important difference from the so-called Halton project, and that is that in this case the victim is entitled to withdraw his or her statement at any time. The victim, in that sense, is in control, we hope, of what is going to be happening here. The victim can say, "I have changed my mind, I do not want to say anything;" or he can say, "I have changed my mind, I do want to say something." What we are trying to do is to maximize the decision-making capacity the victim is going to have as he or she tries to tell the court what happened in his or her own words.

Mr. D. R. Cooke: If he withdraws the statement, I take it the crown attorneys are instructed not to use it thereafter.

Hon. Mr. Scott: The crown attorneys cannot be disabused of the information contained in it, but they cannot use the statement. Indeed, the form precisely says, if I am not wrong, "You may withdraw this statement at any time."

Mr. D. R. Cooke: To what extent is the statement available to defence counsel?

Hon. Mr. Scott: The form says, "A copy of your statement may be made available to the accused or his counsel upon request to the prosecutor." We are not seeking to hide information. What is contemplated is that the defence counsel can ask: "Has a victim impact statement been made? If so, I would like to inspect a copy of it." That does not mean it becomes a document before a court. It simply means that if the victim makes a statement, it must be available to both the crown counsel and counsel for the accused.

Mr. D. R. Cooke: That begs the question of what might happen if the witness wishes to withdraw the statement and defence counsel in possession of the statement may wish to somehow make use of it.

Hon. Mr. Scott: He cannot use the statement. He can always–he can even now–call the victim to the witness box, but he cannot use the statement.

Mr. D. R. Cooke: I do not think this is your jurisdiction, but there are no directions to the judge as to what impact that should have on him in sentencing, are there?

Hon. Mr. Scott: I think we should begin with the proposition that this is not the first time victims have spoken to judges. In many cases, victims are called to give evidence on sentencing. The crown attorney and defence counsel have always had that right, and that right will continue notwithstanding this program.

The difficulty about that process is that it does not always happen. As you know, sometimes the most important witness in a case is not called because there is a downside from both sides to calling him or her. That person is not called, and the victim has no way of saying, in effect, "I want to be called." Also, victims have felt that the derogatory process that may be forced on them in the witness box by the rules of court is inhibiting.

Apart altogether from that, many people, in court in the most traumatic circumstances, perhaps for the first time in their lives, feel a horrible agony of fear and embarrassment about what is occurring. Victims say: "We are not comfortable with this. Whether it is deliberate or accidental, we feel that what we want to do is being artificially distorted. Can a mechanism not be developed in which we can speak straight to the judge in our own words?"

Then the judge, of course, is entitled to consider the impact of the crime in assessing the sentence.

Mr. D. R. Cooke: Or not.

Hon. Mr. Scott: Or not. This way, we hope he will get the best information about impact that the victim can provide. There may be other

sources of impact, medical evidence or other members of the family, but the account of the impact from the victim, we hope, can be provided as freely and as comfortably by this mechanism as possible.

Ms. Gigantes: How will people for whom English is not their mother tongue be able to participate in this?

Hon. Mr. Scott: We do not yet have a statement expressed in other languages. A person who does not speak English will have to be put in touch with an interpreter. I think in this context the victim-witness officer is most likely to be helpful. We are going to have to see whether that is a good way of doing it or whether it is desirable and appropriate to have forms in languages other than English.

The problem with forms in languages other than English is they are great for the victim to fill in but are of no help to most crown attorneys or judges. In other words, there is going to have to be a translation process somewhere. The issue is whether it is best at the victim's stage or at the judge's stage. We will find out about that as we get along with the experiment.

Ms. Gigantes: Is it possible to set up two ways of doing it?

Ms. Lee: Maybe I can address that.

Ms. Gigantes: If it is the victim's program, it seems to me it should not be the victim who has to go through the translation process.

Ms. Lee: You will notice that the period of time is very quick. From the time we ask the victim to fill it out until it comes back we do not have much time to get it placed into the police file and send it through the system to the crown attorney's office. That was one of the reasons the timing was so quick.

We did address the problem of other languages. You will notice that on the front there is reference to a police officer who will assist people who call. He will undertake to put these people in touch with people, perhaps from the ethnic squad. In addition, we have had a meeting with all the victims' groups in Toronto, or people who have something to do with victims of crime, and we have enlisted their help in assisting us in getting translators if they need them. It is not a perfect system and we hope to find out over the next 18 months how to improve it, but we want to get the process put in place.

Ms. Gigantes: Can I ask why it is of such great importance to have the thing in the file in 10 days?

Ms. Lee: That is the turnover time from the time a police file is taken. After an arrest is made, the police file is made up with confidential instructions to the crown and sent over to the crown attorney's office. An early appearance can happen at that point. We want to be able to get the form in the file so it will follow through the system, because invariably it will fall through the cracks if the person sends it directly to the crown attorney's office.

Ms. Gigantes: Tell me what happens after 10 days? I do not understand why–

Hon. Mr. Scott: It goes to the crown attorney.

Ms. Gigantes: But why does the victim's statement have to be there at that initial stage?

Hon. Mr. Scott: As I understand it, what happens is that at that stage the police file is bundled up and goes to the crown attorney. There is nothing in this process that would prevent a victim who had not participated in the program in the first 10 days from participating later. It is simply that if the police officer is going to hand over the file to the crown attorney and close his file at 10 days, if the victim wants to fill in the form at the police officer's request he has to get it in to the police officer or he will not know where to send it.

Ms. Gigantes: It seems to me these are a few wrinkles that bear looking at.

Ms. Lee: We will be looking at them and doing some evaluation. We plan to fix it as time goes on, but this was the way we saw we could start it. This was the best process we devised to start it. When we start to look at how these forms go through the system we will change our approach as needed.

Hon. Mr. Scott: Theoretically, we are dealing with thousands of forms. If you were going to compel the victim to enter a room and sit down and fill in the form there would be no problem; but that is not the scheme, it is to be voluntary. He should be able to take it home. He should be able to get advice, to take it to a minister, teacher or friend.

If you are going to let the form go out, you have to tell people when to bring it back, because if they bring it back a month later and the file has gone from the police officer they do not know whom to leave it with. They will come to the desk at the police station and say, "Here is a form I was given a month ago." Then the victim impact statement is chasing the crown attorney's file. You may think it an easy matter to put those two together, but when you are dealing with thousands it is not.

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I envisage the possibility someone will say at the police stage, "I do not want to participate in this, thank you very much," and then change his mind when the matter is in the hands of the crown attorney. A month later, when he is feeling more stable and comfortable, he may say he is anxious to participate. Nothing will preclude someone from participating at that time. He will simply be able to say: "The police officer offered me this chance a month ago. I turned it down, but I would like to do it now."

Ms. Gigantes: It seems to me the way it is being set up is a somewhat limited kind of design for an evaluation of the effectiveness of it all.

Hon. Mr. Scott: I would be grateful for any suggestions you have. We are at an early stage and we can certainly modify it if the suggestions are sound and will make it more useful. I regard that as part of this process.

Ms. Gigantes: I do not know how many of your thousands of cases would have to be dealt with in other languages, but that might be considered right from the start.

Mr. O'Connor: On that point, I do not think there is the logistical problem my friend anticipates. What happens is that the police officer prepares the file for the crown attorney, but he keeps a copy for himself. If, thereafter, the victim brings in a statement and gives it to the police officer whom he has had contact with, the officer can make a copy and get it to the crown's file. The time he catches up with the crown again is at the trial. He is there as a witness and can then provide it to the crown. If the accused pleads guilty and the crown needs the victim there to give evidence at the sentencing, the sentencing can always be adjourned to a later date. I do not see the great problem she is anticipating in the paper chase.

Hon. Mr. Scott: Let us face it, if a victim decides he is not going to comply with the 10-day request and 30 days later comes in with the victim impact statement, you can be sure the police will do everything they can to match the statement with the crown attorney's file. What we will occasionally miss in those circumstances are the quick guilty pleas. This is another reason you have to have some kind of time limit. It would be very frustrating if you told the victim: "Take your time. There is no time limit." The victim takes his time to fill in the impact statement, delivers it and finds the trial is over and sentence has been imposed before the form got in. That is another reason for encouraging–

Ms. Gigantes: He cannot be a slow writer.

Hon. Mr. Scott: Not on a plea of guilty.

Mr. O'Connor: That is pretty rare, though. The first appearance is usually three to four weeks after the offence.

Hon. Mr. Scott: I recall a recent trial in which the whole thing was wrapped up in three weeks.

Mr. O'Connor: There must have been a plea of guilty then. You would not get a trial–

Hon. Mr. Scott: Yes, that is what I am saying, a plea of guilty.

Mr. O'Connor: All right, that is what I am saying. Three weeks is a lot longer than the 10 days you have suggested.

Hon. Mr. Scott: We are very anxious that the victim impact statement, which is designed for sentencing, be available on a plea of guilty as well as on a plea of not guilty.

Mr. O'Connor: Three weeks is pretty quick, though.

Hon. Mr. Scott: Not in my experience.

Mr. O'Connor: May we move on to victim-witness assistance programs? With the assistance of Susan Lee, I might ask some questions. I was interested in the explanation given about the 10 pilot projects. I note the impetus for this whole program began some two years ago, when there was anticipated to be over $5 million allocated for this very project. I am thankful it is now coming to fruition in pilot projects in 10 cities.

There are victim-witness assistance programs going on all over North America in the common law jurisdiction. We are well past the point of determining whether these things work or not. Surely they work. They are doing the job they are supposed to do. There are all kinds of models for them. Why are we still dealing with pilot projects in Ontario? Why can we not simply move to a province-wide program with the $5 million that has been allocated, instead of the $900,000 that is anticipated for the 18-month pilot project? What more is there to learn from the pilots that we do not already know from Manitoba, California and all over the place? Why so slow?

Hon. Mr. Scott: Perhaps Ms. Lee can deal with this, but I did not understand funds were allocated to this two years ago. I take it that is not true. There were no funds allocated to this program before this. As occasionally happens, your premise is wrong.

Mr. O'Connor: A sum of $5.1 million or $5.2 million was, I believe, set out in estimates that Mr. Pope or his predecessor had brought

forward two years ago for victim-witness assistance programs.

Ms. Lee: That money was never allocated to the Ministry of the Attorney General. It was talked about, but the money never came to the ministry. This is the first time under the family violence initiatives that the money has ever become available to run these projects.

Mr. O'Connor: It was never approved by cabinet.

Ms. Lee: No, it was not approved by cabinet.

Mr. O'Connor: I guess I got it from–

Hon. Mr. Scott: Your government probably promised it.

Mr. O'Connor: No, the minister's briefing book had a page on victim-witness assistance programs and described that amount of money as being available. Regardless of that, it is going ahead now. My question still remains, why are we still doing pilot projects when we know darn well these things work? They have done the job in many other jurisdictions.

Ms. Lee: We know they work in some jurisdictions in the United States and we know they work in Winnipeg and British Columbia, but we do not know whether they work in some of the places we have chosen in Ontario. We have chosen to look at these things and evaluate them over the next year or over 18 months, from October 1986 to March 31, 1988. Based on what the evaluation tells us, we will then make another pitch to the Management Board of Cabinet to support these projects again and support more projects. Right now, it seems to us appropriate to just look at a small number in various kinds of communities–northern communities, francophone communities, urban centres and that kind of thing–and report back to Management Board at the end of March 1988. Based on what we tell them, they can decide whether we should get money to widen the program.

Mr. O'Connor: With the greatest respect, I do not think you are answering the question. You have admitted they work in several other common law jurisdictions in North America. Why are we so different in Ontario? We know that they work–

Hon. Mr. Scott: I am not sure that is a fair question to ask a public servant. The reality is that we know the theory works, but Ms. Gigantes herself has raised a number of questions about the design of the program, such as the question of languages. There are real questions about the division of responsibility between the police and the crown attorney that have to be evaluated.

Ms. Gigantes: Are we mixing up two projects here? We are talking about victim assistance and we are talking about witness impact.

Mr. O'Connor: We are talking about victim assistance right now.

Hon. Mr. Scott: Both of them are pilot projects in that sense.

Ms. Gigantes: Yes, but I did not make suggestions about–

Hon. Mr. Scott: All right, but the issue remains that what we have had in Ontario with respect to victim-witness assistance programs until now are two projects, one in Ottawa and one in London, that were very narrow. They were reasonably successful but they were very narrow. We now are moving that to 10 areas on a slightly different model. I think it is fair to say that we will move to evaluate what happens and see whether there are any glitches, see whether it works and see whether there are other things that will make it work better. I do not believe you abstract the design of a program and say, "There it is Ontario; we are taking it all across the province, good, bad or indifferent." You want to assess how it goes. Management Board also requires that you do that.

Mr. O'Connor: Is it not a fact though that you simply could not get the $5 million necessary for the full program, but that you were able to get about a fifth of that to get some pilot projects going?

Hon. Mr. Scott: We got the money we asked for.

Mr. O'Connor: Have you given any thought to something similar to the very excellent program running in Manitoba that has been going for some time now. In July 1986 they introduced a bill into the Manitoba Legislature that I believe has had second reading, but which is not fully passed, entitled–

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Hon. Mr. Scott: Is this the victim's rights act, the Justice for Victims of Crime Act?

Mr. O'Connor: Yes, the victim's rights act.

Hon. Mr. Scott: I have been to Manitoba and met with the Attorney General and that program has been discussed at an attorney general's conference. There is something to be said for it. I think the Attorney General of Manitoba himself, an imaginative fellow, would recognize that this is an experiment. It is very easy, as he would acknowledge, to develop a victim's bill of rights. The difficult question is not designing a victim's bill of rights but translating those rights in a

meaningful way into actual alternatives for the victim on the street. The problems they are addressing in Manitoba are of that very dimension. We will watch that and see how it comes along.

Mr. O'Connor: What I was going to say, and you have picked up on it, was that the first third of that statute is a recitation of principles and rights of victims of crimes. The last two thirds are similar to two statutes we have in Ontario. One is the Compensation for Victims of Crime Act and the other one is–I have forgotten–the creation of a victims' assistance fund, which we are talking about now.

Hon. Mr. Scott: I do not think we would disagree with the statement of principles in any way. I do not think Ontario's citizens would regard our victims as having fewer rights to stand on than exist in Manitoba, where they are set out in the statute. The question is, how do you make them meaningful? How do you get those rights to actual victims?

Mr. O'Connor: I suggest the real value of the statute, if it is passed, is the setting out of a bill of rights for victims, encompassing in the one statute all the various statutes and ways of helping and protecting victims, therefore enhancing and highlighting victims' rights under one statute. It gives it more prominence. It is a signal from the Attorney General or from the government of Manitoba, saying, "We recognize victims have rights and we want to put some emphasis in this area of our justice system."

We have done all the things they have done in a piecemeal fashion and through separate statutes. I think there is some value in doing it in the manner they have done it by making a point of saying, "We think the victims of a crime are more important than the criminal in a crime."

Hon. Mr. Scott: There is certainly no harm in it. Constitutionally, I think the business of a bunch of politicians announcing to the world all the valuable new rights they are going to get is less interesting than seeing whether the politicians can actually produce these rights for real people on the ground, without all the ceremony.

Mr. O'Connor: The second and third parts of the statute do that.

Hon. Mr. Scott: That is why we are taking this to 10 project areas in Ontario, to see whether we can actually make this work on the ground.

Mr. O'Connor: All right. My question is, what is for the future after the 18 months? What plans for expansion are there then? Is it province-wide immediately?

Ms. Lee: No.

Mr. O'Connor: What kind of funding is available or do you hope will be available?

Ms. Lee: Our tentative plans, if we receive the money, are to expand to six more centres after that. If there is lots of money available, we could amend our plans. Those are tentative plans right now. We do not know what moneys will be available.

Mr. O'Connor: Or what government might be providing it.

Mr. D. R. Cooke: I want to change the subject slightly, but before I do so I want to reiterate again, because the Attorney General has just indicated it, that politicians can talk a lot but I do not know what we accomplish necessarily. These statements do not necessarily have any influence on the final sentencing process.

Ms. Gigantes: Before the subject gets changed, I find that all the comments just made by the Attorney General sound very strange coming from the mouth of a man who has gone around Ontario, with reporters hanging on his every word, telling us how our justice system has fallen into disrepute and that one of the really effective ways of dealing with it in terms of public confidence is to make sure we give witnesses and victims the kind of support system they need.

Hon. Mr. Scott: I think that is entirely right. I have made a point–

Ms. Gigantes: It is pretty hard to call upon your rights, or the system to provide you with support, when you do not even know what it is the system thinks you ought to have when you are a victim or a witness.

Hon. Mr. Scott: It is not a question of rights in that sense. The point I have tried to make, and frankly it is a product of my own experience, is that we confront a major crisis in the criminal justice system. The crisis exists for a whole lot of reasons having to do with size, with our growth, with the new Charter of Rights, with the different kinds of crime and with the different definitions of crime that the community is developing.

There is a basic anxiety shared by perfectly law-abiding citizens and by victims and witnesses that our system is not equipped to deal with the problems of criminal justice for them or for the community as a whole. I think there is a major crisis. I do not think it is restricted to Ontario by any means. It is North American and we are confronting it here in Ontario. I do not think the solution to that problem is to announce a whole lot of theoretical rights that we cannot deliver to people.

Ms. Gigantes: When people are aware something should be given to them, you would be surprised how they can mobilize to get it.

Hon. Mr. Scott: When you announce that a victim has the following rights, that is great. I have no trouble with announcing that, but it does not take you anywhere. You then have to provide the infrastructure to deliver those rights. With all the victims who are abused and beaten and robbed and all the rest of it in Ontario, if I go around handing each of them a copy of a victim's bill of rights, they are not really going to thank me. What they want is a system created in which not some grand political figure, but police officers and the crown attorney in the police station and the city hall courts will say: "These are the things we can do for you, Mr. or Mrs. Jones. Here is the form we are asking you to fill in. Here is the way you can help us. Here is the role you can play."

Ms. Gigantes: We all understand that.

Hon. Mr. Scott: I think that is very important. I do not think the solution is announcing new rights.

Ms. Gigantes: It is part of the political process, because when people understand what the system ought to be providing then they support political efforts to provide the moneys and the resources in program terms to provide it.

Hon. Mr. Scott: I do not think it has anything to do with politics. It has to do with ordinary Ontario citizens who are caught up in the criminal justice system–

Ms. Gigantes: Everything is politics.

Hon. Mr. Scott: –because they run into a criminal or because they are robbed or because they are beaten and do not know what to do. They are not following the debates of this committee. They have not read some victim-witness bill of rights that Mr. O'Connor has for them. They all of a sudden are in a police station, perhaps for the first time in their lives.

Ms. Gigantes: That is why they need that piece of paper to tell them what their rights are.

Hon. Mr. Scott: They are not happy there; they are abused and uncomfortable and uncertain and often alone. What we have to do is create systems the police and the crown law staff can run that accommodate their problem; that is what this is designed to do.

Ms. Gigantes: No argument; it is how we get there.

Hon. Mr. Scott: Exactly.

Mr. D. R. Cooke: I will change the subject slightly but I still want to deal with witnesses. This has to do with witnesses who are perhaps in the murky side of the criminal justice system in that they may not necessarily be victims; rather they are witnesses whose evidence the police need to prosecute a case successfully. It seems a very vague set of guidelines exists. It often results in a witness, who has dreams of a much better life somewhere, some time, misinterpreting the promises that might be made to him by the police. It seems there are some funds available to assist witnesses in circumstances of this nature, but we seem to be having a number of situations where a very great deal of confusion arises after the fact and a great deal of misunderstanding arises as to what the arrangements were that caused the witness to come forward and give evidence, perhaps to his own detriment in so far as his safety is concerned.

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I am wondering if it is feasible to take some of these vague guidelines, make them clear and perhaps prepare a form of memorandum that would bind both the police and the witness, so they both understand where they stand; and which the witness can be encouraged to have explained to him by a lawyer before the fact.

Hon. Mr. Scott: That is essentially what we are doing, but let us just look at what the reality is out there. I concede there may be police officers who will offer inducements, either proper or improper, to witnesses. If a municipal police force makes an inducement, if an officer says, "We will provide the following for you. If you are going to do undercover work for us, we will pay you $100 a day," then the informant has entered into an arrangement with the municipal police force and will deal with the municipal police force.

The crown attorney has had no part to play in that exercise at all, and municipal boards of police under the Ministry of the Solicitor General have to grapple with that problem. We have nothing to do with that: that is not within our territory. There is nothing that prevents, nor should there be in my opinion, the right of a municipal police force to retain the services of somebody to do investigative work or to provide any other services that are lawful.

There are cases, however, where the crown intervenes to do one of two things; usually, I think almost invariably. One is to offer a kind of protection to a person who is fearful that by testifying he will run risks. The protection may run all the way from a new identity to a new

residence in a new community. The other thing the crown may be asked to do is to provide expense money for a witness who, in order to give evidence, has to give up his job, leave the community for a couple of months and lose his salary.

In either one of those cases, when the crown makes such a proposal or when someone asks the crown to consider such a proposal, the practice invariably is to draft up an agreement designed to set out the arrangement and invite the witness to sign the agreement.

In the case of Mr. Lane, to whom Mr. Runciman made reference the other day, that is precisely what happened. Mr. Lane elected, as many people do, not to sign the agreement. We could not, and would not, compel him. That was his choice. Those are the two things we do.

In Mr. Lane's case, because that is the current case, he retained a lawyer some months ago. He does not seek at this stage–and, I gather, never did–any funds to allow him to be incommunicado. He has been on television almost constantly since the Demeter trial. What he seeks is certain expense money, because he was out of work for a period. We have negotiated with his lawyer as to what he might be entitled to. Obviously, he refused to sign the agreement, so there is no written agreement as to what he is entitled to. We cannot rely on an agreement he refused to sign and we are negotiating that with him, as we do with others. If his views that he should be paid a certain sum of money per week are larger than ours, that is the way it is.

Mr. D. R. Cooke: You are indicating the rule is that crown attorneys, when they are involved, will recommend an agreement be signed and will–

Hon. Mr. Scott: Mr. Hunt, the assistant deputy minister, criminal law, points out that they do not in every case have a formal agreement. They occasionally have a letter of agreement which a person is invited to sign. The idea is that in every case we invite the witness to obtain–he can consult a lawyer at any time–a written confirmatory document, whether an agreement or a letter, so that after the event there will be no dispute.

Mr. D. R. Cooke: The circumstances are often such, in actual fact, that while the police have directions and orders to refer instances of this nature to the crown attorney, they often get excited in their own right and end up making their own arrangements with the informant.

Is it the case that in a circumstance of that nature, the crown attorney, in any event, would write a letter to the informant setting out as much as he knows of the understanding?

Hon. Mr. Scott: The crown attorney in that situation perhaps knows nothing about it. Municipal police forces frequently retain people to provide services for them. It would be improper to pay for evidence, but they certainly pay for investigative work. They tell people they will be giving evidence and their expenses will be paid and so on.

All I am saying is that a witness who makes his arrangement with the police is going to have to deal with the police and the municipality that has hired the police. If he says, "I would rather deal with the crown attorney," and if he insists on that, a crown attorney will and should be called in and the process I have described will occur. However, the crown attorneys do not and could not run the police forces of Ontario.

In so far as there are difficulties in dealing with the police, that is a matter either for the municipality or the Solicitor General (Mr. Keyes), who has certain regulatory authority over police officers in general ways.

It is interesting. If you look at the private member's bill, you will see it does not contain one thing that is not now being done in Ontario, with a single exception, and that is that it says if there is any dispute the dispute will be decided by the Criminal Injuries Compensation Board.

Mr. D. R. Cooke: Mr. Lane does not like the private member's bill either. I should inform you of that.

All I am trying to reiterate is that in any circumstance where the crown attorney becomes aware of something like this occurring, it might be helpful if he at least gets into letter form the extent to which he is aware of the arrangement, because it tends to be the case, even when counsel is involved on the other side, that the police and the witness end up doing their own thing because they cannot wait around for lawyers.

Hon. Mr. Scott: If there should be some disreputable police officer somewhere who offers someone $50,000, I can tell you, if that promise comes to the attention of the crown attorney in the case there will be a major inquiry about the propriety of the offer in the first place, whether the offer was honoured and whether it was appropriate.

The experience is that those matters do not come to the attention of the crown attorney. They come to the attention of the public after the event when the person says, "The police promised me a lump sum of X dollars;" and the police say, "We

never promised any such thing." That is a matter for the regulation of police forces. We have a system whereby crown attorneys are required, where they make the arrangement, to ask the witness if he will confirm, by agreement or by letter, the arrangement so that there will be no doubt about it.

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Ms. Gigantes: Very briefly, as I understand the facts of the case, it seems to me that in a case like the Lane case what we were dealing with was an apprehended crime where a witness stepped forward and where time may have been of the essence in terms of the witness's co-operation with the police.

Hon. Mr. Scott: It was a conspiracy to commit murder.

Ms. Gigantes: That is correct. One has to act pretty quickly in apprehending that kind of situation.

Hon. Mr. Scott: I do not think that was the problem. It hung around for quite a long time. The problem was that Mr. Lane originally claimed that the Peel regional police had promised him various lump sums. He has said, on various occasions, that those lump sums were $50,000, $100,000 or $200,000.

Ms. Gigantes: I was going to make a suggestion. Particularly in a case of this nature, where one is dealing with a very serious apprehended crime and where time and the urgencies of the matter may lead to shortcuts, misunderstandings and so on, why is it not taken as a matter of course that, just as a policeman is obliged to tell somebody that he is being placed under arrest and that anything said will be taken down and perhaps used in court against the person arrested, a potential witness who is offering service should be given warning he had better attend to any undertaking that may be made to him with a lawyer and make sure it is an undertaking somebody will effectually carry through for him?

Hon. Mr. Scott: That is a very interesting proposal which relates to the law of criminal evidence. If your colleague the federal member for Ottawa Centre would care to suggest it to the federal Minister of Justice, who is the custodian of that law, he might implement it.

Ms. Gigantes: He might implement it much more quickly if you were to suggest it.

Hon. Mr. Scott: That is why I am going to look at it. The point I am making is that is not a matter over which the province can have any control. It is an interesting suggestion.

Ms. Gigantes: I understand.

M. Poirier: J'ai une question sur ce qui a trait aux services en français, mais premièrement, Monsieur le procureur général, je voudrais vous féliciter pour votre élocution, hier, en français. Vous m'aviez promis que vous vous mettriez au travail à l'apprentissage du français. Comme je peux le voir, vous avez fait un excellent début.

A titre de député de la circonscription la plus francophone de l'Ontario–

Mr. Chairman: It is a personal opinion.

M. Poirier: Bien sûr, c'est une opinion personnelle, mais elle est très valable, Monsieur le Président.

A titre de député de la circonscription la plus francophone de l'Ontario, j'apprécie fortement que votre ministère soit très impliqué dans la Clinique juridique populaire de Prescott-Russell.

Je voudrais savoir, puisque votre ministère est à l'avant-garde des services en français en Ontario, quelle sorte de plan auriez-vous pour la création de telles autres cliniques populaires juridiques, en français, dans les autres zones francophones de l'Ontario?

Hon. Mr. Scott: Thank you for the undeserved compliment to which I cannot respond appropriately.

The tradition in this ministry in support of francophone language rights is very strong. Mr. McMurtry, a previous minister, deserves all the credit for that. I am proud to carry on with his initiatives. We do not hesitate to take the initiatives we regard as right. I think the assertion that now there is no court in Ontario in which a francophone cannot assert his right to have a trial in French should be established. We want the francophone community not to hesitate to use that right.

The question of legal aid clinics is one that is important, but as I said in the House to our chairman when he asked a question yesterday, the administration of legal aid is not conducted directly by the ministry. It is conducted by the Law Society of Upper Canada and its legal aid committee. That was part of a historic compromise made when legal aid was introduced about 20 years ago, that the profession would be a dominant figure in the administration of legal aid in exchange for its participation in the program. It was to invite the profession to honour that obligation that we had the contretemps about whether a contribution should be made by members of the profession who did not provide legal aid services.

It follows that the determination about clinics is made not by us but by the Law Society of

Upper Canada. It has a committee called a clinic funding committee, which recommends to the benchers of the law society how many legal aid clinics should be established each year. They take applications. They review those applications and make a recommendation, and if there are community organizations in any part of Ontario, francophone or not, that want to apply to be funded as a legal aid clinic, they can do so. I think an average of four a year have been added to the roster. I had the pleasure of being in Cornwall a year and a half ago to open one that is largely, if not entirely, francophone, and I hope there will be others.

You will be interested to hear that the victim-witness program we were talking about earlier will be offered in both official languages in Ottawa and Sudbury, which are two of the 10 areas.

M. Poirier: Donc, quand vous avez dit que vous ouvriez quatre nouvelles cliniques par an, il s'agit de cliniques soit anglophones, soit bilingues ou francophones, n'est-ce pas?

Hon. Mr. Scott: Yes. The clinic funding committee requires that the applicant for funding be a community group that pre-exists the grant funding and that there be a community-based board of directors. A number of the clinics are predominantly anglophone, a number are predominantly francophone, and some, no doubt, although I cannot think of any right now, are bilingual. I would have thought that in the Ottawa area or in Sudbury there would undoubtedly be some.

In other words, any community group can form an organization and apply for clinic funding. We have, for example, the groups that represent particular interests. The Advocacy Resource Centre for the Handicapped, for example, is funded by the clinic funding committee of legal aid predominantly to provide legal services to handicapped people, and there are other examples of various clinics that have special interests in terms of clientele or in terms of law.

Mr. O'Connor: On to another subject, if I may, Mr. Chairman.

Mr. Chairman: You certainly may, Mr. O'Connor.

Mr. O'Connor: In my opening remarks yesterday, I referred to a sense or an undercurrent of dissatisfaction that ran through several segments of the justice system in Ontario. I want to explore some of those now, and perhaps the Attorney General can advise us on how we stand on some of them, what progress there may have been and where we seem to be going.

Ms. Gigantes: May I ask my colleague from the Conservative Party, are we following the items that we decided yesterday we would try to touch on today?

Mr. O'Connor: I think I mentioned three items I wanted to speak of today, all three of which we have covered. This will be a new one for me. If you have another one, perhaps we can do it.

Ms. Gigantes: I had hoped we might get to a discussion of legal aid. I do not know whether the items you wish to raise come under vote 1101. Legal aid comes under 1102. We might pass 1101.

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Mr. O'Connor: No. Perhaps we can get some guidance from the chairman. The things I want to raise do not particularly come under that vote. I do not know where they come, frankly; somewhat later on in the estimates, I believe.

Mr. Chairman: So as not to be restrictive from the standpoint of the chair by introducing the vote on 1101, we can move ahead and then stack the votes at the end. If you want to move to the next chapter, it is not necessary to complete vote 1101, as long as you have agreement by the committee.

Ms. Gigantes: Did we have agreement yesterday that we would try to get on to the item covering legal aid?

Mr. O'Connor: Yes, I believe we did. I agree with that. I am taking the matter out of the order we agreed to yesterday. If my friend wishes to go ahead on that point, I am quite content.

Hon. Mr. Scott: We have lots of time.

Mr. O'Connor: We have three quarters of an hour left today, which might serve us for legal aid. Perhaps I can leave my area for another day.

Mr. Chairman: Do you have a problem with that, Ms. Gigantes?

Ms. Gigantes: With legal aid?

Mr. Chairman: Yes.

Ms. Gigantes: That was my hope.

Mr. Chairman: That we could go ahead with it?

Ms. Gigantes: Yes.

Mr. Chairman: Fine. Proceed then.

Mr. O'Connor: I am content to deal with legal aid today if my friend wishes. The commitment was made yesterday that we would

do three of my items and a couple of hers, and I am beyond my three.

Mr. Chairman: I believe there is agreement that we can move on to legal aid. If that meets with everyone's approval, I will let you introduce the subject.

Mr. O'Connor: She raised it. She can go ahead.

Mr. Chairman: All right. We will go to Ms. Gigantes and let her introduce legal aid.

Ms. Gigantes: I would like to see if we can elicit from the Attorney General any further comments about his opening statement concerning the expansion of legal aid, and then I would like to take a look in a bit of detail at the funding of legal aid.

Hon. Mr. Scott: As to the statement, I have made comment a couple of times about the reality we now confront on the civil, criminal and advice sides that forces us to acknowledge that provision of legal services is very expensive for the crown. I do not think much can be done to reduce that burden by attacking fees that lawyers charge. I believe most fees lawyers charge are relatively reasonable. They are often a function of existing systems that are exotic to me in their complexity, to say the least, and they are often a function of time delays that are very considerable. On those two points, the administration of justice can be modified to reduce the necessity of charging a fee, but by and large we will not be able to make legal services available to our public more easily by reducing fees. Therefore, we have to look at other ways to do that.

We have to acknowledge that for the average family in Ontario, a husband, a wife and two kids, earning $32,000 a year or some unit like that–the key point is earning $32,000 a year–there is no room, and never will be any room, in that budget for any legal services beyond the making of a will or perhaps the conveyance of a residential property. A young family that gets into a dispute about a real estate deposit of $8,000 or $10,000 will not be able to afford a legal bill of $5,000 or $6,000 to vindicate its rights. It seems to me every lawyer recognizes that. The problem is, what is to be done about it?

I think one thing to be done about it is to begin to provide alternative services. This is what alternative dispute resolution is all about. The second thing to be done about it is to recognize the desirability of creating insurance or self-insurance schemes so individuals or groups can offset the cost of anticipated legal services.

Ms. Gigantes: There is nothing to prevent that now.

Hon. Mr. Scott: There is nothing to prevent that, although there is presently a dispute between the Law Society of Upper Canada and the Canadian auto workers at General Motors with respect to the plan that the union and GM have, a dispute that does not prevent it but in effect makes the propriety of that arrangement a matter for the court.

The third way is to expand the legal aid system and the clinic system. That is what I was referring to when I said in my opening remarks that we should perhaps look at the limits that have existed in the legal aid plan that structurally have been there for a decade.

Ms. Gigantes: There were some proposals in the Canadian Bar Association report on legal aid that suggested innovations might be developed in terms of collecting moneys from clients who could have charges applied later for services they received through legal aid. I wonder whether that would provide any opening.

Hon. Mr. Scott: I do not think that is the solution. It seems to me that proposal has to do with legal aid asking the question, "How can we get a more significant contribution to the cost of these services from the beneficiary of the service?" That may be a legitimate question. As we expand the limit under which legal aid may be granted, it may become a more pertinent question, but tracking the client for collection purposes is not really responding to the kind of issue I have in mind.

Ms. Gigantes: When we look at the thought you have put out that we should consider an expansion of legal aid now, obviously we will go back and look at all the costs associated with the current system and all the difficulties you have demonstrated in trying to arrange over many long months to provide adequate payment for those lawyers who do legal aid work in Ontario. I have raised this matter before with the Attorney General in the discussion of the increased moneys to be made available for payment to lawyers performing legal aid services.

In my review of the financing as it currently exists, the kind of noise we have heard at the provincial government level about the costs of the legal aid system we now have, to my mind, has been a bit misleading. For all the discussion and hemming and hawing and so on about increasing fees to lawyers in the legal aid system, when we look at it all and boil it all down, I see three basic sources of money that flows to the legal aid system and makes up a very large part of

the funding for the legal aid system. I would like to run through the accounts as I have redrawn them because they are quite confused in my mind.

Hon. Mr. Scott: What is the issue there, just so I understand it?

Ms. Gigantes: The issue is whether our legal aid system is all that terribly expensive in relative terms.

Hon. Mr. Scott: I do not say it is all that terribly expensive.

Ms. Gigantes: Certainly, I believe the public has had the impression during the last two years, and even earlier than that, that to increase payments to lawyers who provide legal aid services would add a very large amount to a budgetary item that was already a very large budgetary item.

Hon. Mr. Scott: That is not an impression they got from me. That may have been Mr. McMurtry's point.

Ms. Gigantes: I do not know where anybody else got it; I got it from you and from your predecessor.

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Hon. Mr. Scott: You should not have. The point I was trying to make was that the people who provide the service were entitled to an increase. If that was not readily obvious from looking at what they were paid, it was put beyond argument by the arbitrator's report. As far as I was concerned, it was important they should get that three-stage increase. I believe it is a matter of principle that lawyers who elect not to do legal aid work should contribute to the legal aid process. I went to the law society for this money not because the Treasury of Ontario needed the money, but because, as a professional committed to legal aid, I believed our profession had an obligation to provide it.

Ms. Gigantes: We had this discussion last year, and I am not going to raise the questions that were raised last year. Instead, if I could, what I would like to do is to look at the sources of funding for the current program.

If I look at legal aid as we are budgeting it for 1986-87, I see four sources of money. The first comes from lawyers, and that will probably be–I stand to be corrected and I would be delighted to be corrected on any of these estimates I have made from various sources, including some from the briefing book–some $3 million from the law society.

Hon. Mr. Scott: I can give you the sources.

Ms. Gigantes: Can I just check these amounts through with you?

Hon. Mr. Scott: All right.

Ms. Gigantes: It is about $3 million from the law society, and about $3 million that would, in a sense, be a contribution from lawyers doing legal aid.

Hon. Mr. Scott: That is not a contribution that will be received in 1986-87.

Ms. Gigantes: Can I just finish this item, and perhaps you will see where I am heading? This is one item that I have called the law society source. It comes to about $6.1 or $6.2 million total, if I look to the estimates that were provided in the Canadian Bar Association–Ontario report; that was its estimate.

Mr. Chaloner: Is that the law society figure?

Ms. Gigantes: This was from the bar, the CBA-O. That was its estimate, based on the minister's proposed contribution from lawyers in Ontario and also, if you add in about five per cent, a contribution, in a sense, by the lawyers who do legal aid work in the form of a reduction of five per cent in their tariff, which is part of the whole scheme. I count that in as a positive amount.

Hon. Mr. Scott: I do not accept that; that money is never passed.

Ms. Gigantes: No, that money is not passed. I am looking at the real amount here, if I may. If we are looking at a total, what I call a law society contribution, the lawyers and the law society, either doing legal aid work or not doing legal aid work, are contributing about $6.1 to $6.2 million worth of money or work as one item.

The second item is the law foundation that provides three quarters of the amount that is earned on interest on lawyer's trust accounts. According to the minister's statement yesterday, you are expecting that amount will double in 1986-87 because of the wise rearrangements of the law foundation; so I would guess we are looking at a contribution of about $14 million.

Hon. Mr. Scott: It is $12.3 million.

Ms. Gigantes: It is $12.3 million? Good; correction.

When you indicate that the third outside source of funding, which is the federal government, under a new arrangement and according to the briefing book, final page–

Hon. Mr. Scott: Do you want the figures?

Ms. Gigantes: It would be $26.5 million, if I understand page 105?

Hon. Mr. Scott: I think it is a little more than that. Anticipated for 1986-87 on the criminal side would be $17 million-odd; on the civil side, $7.5 million; and under the young offenders, there is a contribution, $2,960,000.

Ms. Gigantes: Those do not quite jibe with the figures at the back of the book. What would the total be?

Hon. Mr. Scott: I do not have a total, but those–

Ms. Gigantes: About $26 million?

Hon. Mr. Scott: Seventeen and seven is what–24?

Ms. Gigantes: It is $27 million–$26.6 million? I had estimated $26.5 million according to this, which is quite close.

We have about $6 million from the law society, either in money or value of work, about $12.3 million coming from the law foundation and $26 million to $27 million coming from the federal government; that is about $45 million, either in money or in work, and only about $3 million of that would be in work. Thus, we are looking at a contribution, from sources outside the revenue provided through the Treasurer (Mr. Nixon), that comes to almost two thirds of the cost of the total operation of the legal aid plan, if my calculations are correct.

Hon. Mr. Scott: That may be what you think, but our anticipated contribution from the province for 1986-87 will be $41,172,000.

Ms. Gigantes: The figures do not add up then. I would love to have some explanation.

Hon. Mr. Scott: I can tell you the anticipated sources of revenue for the plan for 1986-87.

Ms. Gigantes: That would be great.

Hon. Mr. Scott: That was what I wanted to do. They are: Law Foundation of Ontario, $12.3 million; contribution from clients, which is what is collected from those obliged to pay something, $4.7 million–I am rounding these out but I have the precise figures; judgements, costs and settlements, $1,837,000; federal government, $17.29 million, $7.5 million, and $2.96 million–those are the figures I gave you earlier; Ontario, $41,172,000; and miscellaneous income, $600,000.

Ms. Gigantes: That is going to add up to more than the vote we have been given here.

Hon. Mr. Scott: It is going to add up to $87,246,300.

Ms. Gigantes: Then why have we got down on page J13 of the estimates book–

Hon. Mr. Scott: That is because the estimates were filed within a certain period of time following the budget, and those were the estimated amounts at the time the estimates were filed.

Ms. Gigantes: Before the tariff was increased?

Hon. Mr. Scott: Certainly before the act was passed, before the tariff was increased and before the current estimate I have given you was prepared. It is a part of the function of the time lag.

Ms. Gigantes: By your calculation then, the amount the province will be providing in terms of a revenue contribution from the Treasury to the operation of the plan on this new calculation of the yearly cost of the plan will be how much?

Hon. Mr. Scott: It will be $41 million.

Ms. Gigantes: Yes. As a percentage? I have not added them all up; have you?

Hon. Mr. Scott: I have not done the percentage, but it looks to me to be slightly less than 50 per cent of the total revenue to the plan.

Ms. Gigantes: I understand from the briefing book or your opening statement that the 45 per cent contribution for criminal legal aid that comes from the federal government runs out after the end of this year.

Hon. Mr. Scott: Yes, but we hope to–

Ms. Gigantes: Renegotiate it?

Hon. Mr. Scott: Renegotiate and improve it, or we have a major problem.

Ms. Gigantes: Right. Is there any indication from any other provincial jurisdiction that the federal government will fund an increased level of service under legal aid?

Hon. Mr. Scott: Yes, as I understand it. I go to these conferences of Attorneys General to rattle the sword and ask for more money. What I find, of course, is that the federal government, especially on the criminal law side, bears almost the total cost of the plan in some provinces. I think that in Nova Scotia something like 87 per cent of the criminal legal aid plan is borne by the federal government.

Ms. Gigantes: That is as it should be.

Hon. Mr. Scott: It may be as it should be, but the reality is I go down there to make a case for increased support on the criminal side, and my provincial colleagues, all of whom are getting substantially more than we are, do not want to rock any boats.

Ms. Gigantes: Not in absolute amounts they are not.

Hon. Mr. Scott: The answer is that the percentage is well in excess of 50 per cent of the total.

Ms. Gigantes: But you would expect that under an expanded legal aid program you would be able to continue getting, for example on the criminal side about 45 per cent of funding?

Hon. Mr. Scott: We hope.

Ms. Gigantes: Have you drawn up any preliminary schemes for expanding the program?

Hon. Mr. Scott: There are really two potential expansions. The first is the expansion of the clinic system. There are some problems about that because of the demarcation between the clinics and the private profession in terms of the service they can provide, which will have to be dealt with if we are going to solve part of the problem by expanding clinics.

Ms. Gigantes: Yes.

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Hon. Mr. Scott: The other way is to increase the maximum coverage. As you will see, if you increase the maximum coverage, you obviously alter the contribution-from-client figure I have given you and you increase the cost by an amount that would have to be assessed based on the anticipated additional uptake of the plan. Those figures could be made available. It seems to me it is simply a mathematical assessment.

There is behind all this another issue with which you will not be unfamiliar and that is the concern in the profession. We have a plan that is run by them and in which they feel a proprietary interest. The increased coverage for the plan may cause some professional resistance. Obviously, if you increase the coverage of the plan, you decrease the potential clientele for the private bar.

Ms. Gigantes: Is there any analogy in your mind between this and a kind of creeping OHIP system? If we had allowed the Ontario health insurance plan to develop along this kind of methodology, we now would have an OHIP run by the doctors. If we are moving towards a program that is going to be able to offer service to anyone who needs it, to people who suddenly have to confront large legal bills, a program which is, in a sense, a public insurance program without the premiums, I wonder at what stage you say this should no longer be operated by the profession.

Hon. Mr. Scott: I do not think the analogy is apt, because in the medical system by and large we can recognize that every medical service, leaving aside perhaps plastic surgery, has a place on the graph of essentiality. Scrape your knee and you go to a hospital; if untreated, the leg may have to amputated, and if treated it may turn out to be something that simply demands a Band-Aid. In the medical system, almost everything has that dimension, that potentiality.

In the legal system, that is not true. A person who wants to buy a motorbike for pleasure and wants advice on how he should protect himself is not perhaps in the same category as some law-abiding citizen facing a serious criminal charge. I do not think the provision of legal services can be judged to be critically essential in every instance in the way the provision of medical services can be.

Ms. Gigantes: One could debate that, but I do not think this is the time to do it. I wonder whether at this stage you have gathered some assessments of this system compared to an OHIP system. Are we moving towards a public insurance system for legal services? I would like to know at what point one starts to think about a total system.

Hon. Mr. Scott: I guess what I am saying, and what I was trying to say in a rather awkward way, is that I can understand the need for state intervention to make health care services universally available. I have no problem with that image. I do not accept that it is the function of the state to make legal services universally available because legal services cover everything from issuing a debenture by Massey-Ferguson down to making a will. We allow the president of Massey-Ferguson into OHIP–indeed, we require him to participate in it–and he gets the same medical service you and I get. I do not believe he should turn to the state to provide legal services to him, although I do believe certain persons of restricted income should be able to turn to the state and ask for the provision of legal services.

Ms. Gigantes: In a sense, when we talk about legal services, we are talking more about the nature of the legal problem when we would look at the impact on the person who has to decide whether he can afford legal services.

Hon. Mr. Scott: You asked me whether this was creeping OHIP; I guess the answer is no. I see a mandate for a universal medical system in which the state is the proponent of the medical services' cost.

Ms. Gigantes: You are a prophet in my time.

Hon. Mr. Scott: I do not see any reason the taxpayer should provide a universally available legal system.

Ms. Gigantes: All right; suppose we look at our current legal aid system in which your eligibility for assistance is really determined by your income, not by the gravity of the legal situation you face.

Hon. Mr. Scott: It is both. For example, the clinic and the fee-for-service components have the right to reject cases that are trivial or indefensible.

Ms. Gigantes: Yes, but the clinic or the legal aid office does not accept or reject on the basis that the legal costs for assistance in a certain case may be $20,000 as opposed to $2,000. They determine the availability of the service based on the income of the person.

Hon. Mr. Scott: They look at the total cost of the service you are seeking and your means or capacity to respond to the fees for that service. If the service you are asking is likely to cost $20,000, you may get it; if the service you are asking is likely to cost $2,000, you may not get it.

Ms. Gigantes: Is there a chart that shows that kind of relationship?

Hon. Mr. Scott: I do not think so.

Ms. Gigantes: Reading Inquiry, as it is called, a report done by the Canadian Bar Association–Ontario, on the legal aid system, a fascinating problem seems to exist about what gets accepted or rejected as a provision of service. They have given an indication that they see there is a problem in some areas, which they can identify by the number of rejections, and the number and success of appeals. They feel that in certain areas local legal aid offices may be overly strict about accepting certain applications for assistance. How do you go about dealing with that?

Hon. Mr. Scott: It is not possible to have a meat chart to deal with that. The way it is essentially dealt with is that the clinic funding committee, in respect to clinics, and the legal aid committee, in respect to all other matters, are designed to keep their fingers on that kind of decision-making. Appeals by people who are refused legal aid can be taken to area committees. These area committees are committees of community representatives, and that committee passes on the propriety of the request or the question of entitlement and decides it.

It does not decide with reference to any inflexible rules, because there are no rules that could be designed to express whether the case in the circumstances in which the applicant finds himself is worth while or not. It would be a function of where the applicant is in his life, what the issue is in the case, what the lawyer thinks the chances of success are, and the likely costs of the litigation as opposed to the likely economic advantages of the litigation.

Ms. Gigantes: And also the attitudes in the community.

Hon. Mr. Scott: Yes.

Ms. Gigantes: Do you find that satisfactory?

Hon. Mr. Scott: Nothing is perfect. I am not sure the attitudes in the community are less useful than your attitude or mine. I am not sure a statutory formula can be established that is going to respond to this kind of issue, unless you are prepared to move to universality. I have never met anybody who believes universality of legal services should be a taxpayer responsibility. The whole theory of universality is that you provide to rich and poor alike, a principle I adopt.

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Ms. Gigantes: One of the reasons I initiated this line of inquiry is that one is discussing the difference between the kind of system we have now, which is operated by the profession and which on certain criteria provides certain kinds of assistance to certain types of people, as opposed to a public insurance system.

Hon. Mr. Scott: I have difficulty determining why the taxpayer of Ontario should be obliged, in a universal system, to provide all the legal advice or the reasonable legal advice that Conrad Black wants. The reason we provide his medical insurance when he can afford to pay is so we will not create–I should not deal with an actual person; let us just talk about a rich person.

Mr. Charlton: Everybody else uses him.

Ms. Gigantes: We have no problem with that.

Hon. Mr. Scott: It seems to me the reason we moved to universality in medical care was to avoid a two-tiered system, to avoid the prospect that someone who is less wealthy than somebody else will be served by less competent people. If it is perceived that this is a real risk in the practice of law and the provision of legal services, you may then look at whether a universal legal aid plan is required. I do not think we are at that stage.

Ms. Gigantes: You have suggested you are going to sit down and discuss this CBA-O report with the Law Society of Upper Canada.

Hon. Mr. Scott: The CBA-O has been meeting recently with the legal aid committee to discuss these recommendations.

Ms. Gigantes: Will you get any kind of report out of that discussion?

Hon. Mr. Scott: I will get whatever they recommend. I am not sure the kinds of issues I am directing myself to are reflected in the CBA-O report.

Ms. Gigantes: I really do think some of them are.

Mr. Chairman: Ms. Gigantes, I have allowed a fair amount of time because I know this is a problem.

Ms. Gigantes: I have just one other item, if I may. I will be very quick.

There are some areas in Ontario where a very high proportion of applicants seem to be getting turned down, if you compare those areas to the population base, at the level of the legal aid office, where when appeals are made–and numbers of appeals may be made–the community-based appeal committee is saying legal aid should be granted in these cases. It is a program to which we contribute. It is a program that, politically, we care a lot about in Ontario. We seem to be incredibly removed from trying to make sure that the operation of the program is being administered in a fair-handed way in all areas of the province.

Hon. Mr. Scott: There is no question that there is a problem with uniformity, and the legal aid plan is addressing that by trying to draw together various community clinics.

Ms. Gigantes: You mean the legal aid offices?

Hon. Mr. Scott: Yes. The problem of uniformity derives from the history of the plan. When the plan was initiated–and this is still true–it was recognized that it could not operate without the co-operation of local lawyers, which remains the circumstance. Whether the tariff is high or low, if lawyers in private practice are not participating in the plan unless we conscript them and require them to provide services their co-operation is essential. Therefore, the mechanism selected was a community clinic that would be sensitive to the necessity of having local lawyers.

For example, if you live in Sudbury or a smaller town, if you live in a community where there are 100 lawyers to serve the local population and only 10 of them participate in legal aid by taking certificates, you have a very difficult choice. You can conscript some others against their will, which we have never done in Ontario or anywhere else in the free world; or you can say, "I am sorry but in this town we are simply not going to be able to provide the service." That is the dilemma. That is why the community–

Ms. Gigantes: As to the differences, do you believe there is an association between the rejections of applications and the numbers of lawyers available in a community? Is that what you are trying to suggest?

Hon. Mr. Scott: No, I am saying that the lack of uniformity exists because the area committees are making the determinations and hearing the appeals, and the area committee in Sudbury is not the area committee in London. They are different community people.

Ms. Gigantes: At the clinic level, there is a large number of rejections in community X of a certain size and a much smaller number of rejections in community Y of the same size, and the success of appeals is very different.

Hon. Mr. Scott: That is a function of the area committee. That area committee is responding to the appeals and applications that come before it in a different way than the area–

Ms. Gigantes: Not necessarily. What we can see from the figures is that the number of rejections, and some of them may not even be counted–

Hon. Mr. Scott: Who do you think does the rejecting?

Ms. Gigantes: The clinic.

Hon. Mr. Scott: The area committee. We are not talking about clinics.

Ms. Gigantes: I am talking about the legal aid office.

Hon. Mr. Scott: You are talking about fee-for-service legal aid.

Ms. Gigantes: That is correct.

Hon. Mr. Scott: Who do you think does the rejecting?

Ms. Gigantes: People get turned down by the legal aid office. They then appeal.

Hon. Mr. Scott: They are turned down by the area committee after the appeal.

Ms. Gigantes: No.

Hon. Mr. Scott: The area committee; the local people.

Ms. Gigantes: I refer you to page 38 of the report. I think you can see what I am talking about. The number of rejections on a population basis is very different, and I assume the crime rate is pretty comparable between some of these areas. In areas where there is a high number of rejections, one frequently sees a very high success rate for appeals. This indicates that at the appeal stage, the community is saying: "All right; these cases should not have been rejected."

There is something going on at that legal aid office that is creating too many rejections.

Hon. Mr. Scott: There will be instances where the area director and the area committee do not agree. If the area director is being very lenient with the regulations the appeals are never taken to the area committee. On the other hand, if the area director is being very tight-nosed, appeals are taken to the committee that are won, reversing his decision. If that becomes a protracted problem, it becomes obvious and you say, "Look, you have an area director here who is not responding to the standards that–

Ms. Gigantes: Who says that?

Hon. Mr. Scott: The legal aid committee. It looks at it and says, "You have an area director here who is not responding to the view of the area committee about the circumstances in which legal aid in that community should be made available." If that goes on and you cannot knock heads together, you replace one or the other.

Ms. Gigantes: They can take their complaint to the Law Society of Upper Canada.

Hon. Mr. Scott: Who is taking the complaint now?

Ms. Gigantes: The area committee.

Hon. Mr. Scott: They take their complaint to the legal aid committee.

Ms. Gigantes: No. In Algoma, there are almost 50 per cent of the rejections there are in Ottawa-Carleton. There is no comparison.

Hon. Mr. Scott: I am sorry. It is understood that we are talking about two committees: the area committee of which there are 48 in Ontario and the legal aid committee.

Ms. Gigantes: Yes.

Hon. Mr. Scott: The legal aid committee is a province-wide committee that sits above the 48 area committees.

Ms. Gigantes: Yes.

Hon. Mr. Scott: If a director in Algoma rejects an applicant for legal aid–

Ms. Gigantes: There were 486.

Hon. Mr. Scott: Let us take just one, so you will understand it. He rejects an application for legal aid.

Ms. Gigantes: There were 486 last year, compared to just over 1,000 in Ottawa-Carleton.

Hon. Mr. Scott: So what?

Ms. Gigantes: Look at the number of people in the two areas and ask yourself: how come there are all those–

Hon. Mr. Scott: What is the point you are making?

Ms. Gigantes: A difference in service exists there. I wonder what is happening in Algoma. We have 486 rejections. There are 70 appeals and 86 per cent of those appeals are upheld.

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Hon. Mr. Scott: May I explain what happens? You must leave me one minute to explain. The area director in a community may reject. When he rejects, an appeal can be taken to the area committee. You have pointed out that there are examples where the area committee has overruled the area director.

Ms. Gigantes: That is not my point.

Hon. Mr. Scott: Will you let me finish, please? I understand what your point is, but I do not think you understand how the system works. A legal aid committee sits on top of this mechanism and watches precisely the kind of thing you are watching.

Ms. Gigantes: Then why does the bar association have to report on it?

Hon. Mr. Scott: Just listen. You must not come into these things with your mind so made up. They look at the system with two things in mind. One is that there cannot be uniformity in a system that is community-based. It is the price you pay for community decision-making. On the other hand, the discrepancies that community decision-making creates should not be too fundamental.

Ms. Gigantes: Who hires the director of the local legal aid office?

Hon. Mr. Scott: The Ontario legal aid committee in Toronto.

Ms. Gigantes: But the committee that reviews on a community basis the decisions that person makes may in one area say he is always wrong.

Hon. Mr. Scott: They are also appointed by the Ontario legal aid committee. All the people in this mechanism are appointed by the centralized committee in Toronto with representatives from all across the province. If an area director appointed by the legal aid committee and an area committee appointed by the legal aid committee are feuding or disagree, it is the function of the legal aid committee of Ontario to decide which is going to be right and either fire the area director, if it does not like what he is doing, or replace the area committee members, if it does not like what they are doing.

That is the tension in which they are engaged all the time. When they see a figure that shows

the area director is making these rejections which are being overruled by the area committee, or when they see the area director in Algoma is behaving much differently from the area director in Carleton, they see the problem and they say, "We have to get in there and get a new area director and reshape the area committee."

Ms. Gigantes: Part of what this report brings forward, in the area where a more systematic approach is needed, is precisely the counting of people who come into an office generally seeking legal aid and do not even get counted as applicants. They may not even be here in the statistics.

Hon. Mr. Scott: That is not true; everybody is counted.

Ms. Gigantes: That is not what this report says.

Hon. Mr. Scott: That is what happens. I do not understand where the report says that; it does not happen.

Ms. Gigantes: It says that not everybody even gets to the point of applying formally. They may get discouraged at the door.

Hon. Mr. Scott: It says they are not counted?

Ms. Gigantes: Yes, that is what it says.

Hon. Mr. Scott: That is not our information. If you say that is right and it is set out in the report, I have to accept it.

Ms. Gigantes: I will be glad to find the precise–

Hon. Mr. Scott: Do not trouble yourself now; I can find it if it is there.

Ms. Gigantes: Fine. If you have trouble, I will be glad to find it for you.

Hon. Mr. Scott: This is not to say the system cannot or should not be changed, but the point to be made on the fee-for-service side is that the system depends on community lawyers. If community lawyers are unhappy with the scheme and withdraw from the fee-for-service side, we are going to have major problems. This is why the mechanism is community-based, so the lawyers in Thunder Bay, Sault Ste. Marie, Algoma and Ottawa do not feel the whole thing is being laid on them by somebody in Toronto.

Ms. Gigantes: If we are talking seriously about expanding the system in any significant way, we have some questions of philosophy to answer and some very practical sorting out to do about who runs the system and whether we are getting involved in a public insurance scheme or a very strange kind of basic service.

Hon. Mr. Scott: I am perfectly happy to deal with all those questions. I regard the Ontario legal aid plan, although it is not perfect by any means, as the best in the world. One of the reasons it is the best in the world is that, if we can keep the tariff at reasonable levels there is a very high participation rate by members of the private bar. The members of the private bar–I hope any public servants present will forgive me–are very highly qualified. It is part of the success of our system to a remarkable degree that a person eligible for legal aid can get access to very senior, competent people in the profession.

Ms. Gigantes: The Americans run a health insurance system that in some ways is like the legal aid system. It seems to me that if we are going to expand our legal aid system, we have to look at very large questions about what we are getting into. That is all I am suggesting.

Hon. Mr. Scott: Sure; I agree.

Ms. Gigantes: I do not see how the expansion of this system is going to meet the needs that should be served if we are going to expand coverage significantly.

Mr. Chairman: Perhaps this would be an appropriate time to bring our committee deliberations to a close for this afternoon. I allowed Ms. Gigantes approximately 45 minutes on legal aid.

Ms. Gigantes: I am very grateful.

Mr. Chairman: In fairness to Mr. O'Connor, in two weeks when the committee resumes, should he so wish, I will allow him the first 45 minutes to pursue the questions he wanted to get at.

Mr. O'Connor: Thank you.

Mr. Chairman: Next week, the committee will be dealing with the estimates of the Minister of Financial Institutions (Mr. Kwinter). We will deal with those estimates on Monday and Tuesday. In two weeks' time, we will go back to the Ministry of the Attorney General.

We have a small matter of an overlap of about 32 minutes as a result of the unavoidable delay of the Attorney General today. The way the timing works out, rather than come back and disrupt all your schedules for a matter of 32 minutes, we could perhaps start a couple of minutes early on two days and try to gain those additional 10 or 15 minutes on two separate days. I will try to negotiate that with all the interested parties, rather than call you all back for about half an hour. The Attorney General has promised me he will speak faster, if that would help. That certainly would be one alternative we could entertain as a possible solution to the dilemma.

Hon. Mr. Scott: I could just take you to dinner and then perhaps you would forgive the 32 minutes.

Mr. Chairman: That has been promised for some long time and you have not fulfilled that particular commitment.

If there is nothing further to come before the committee, I would like to ask one final question before you take leave with respect to vote 1101. Are there any staff members whom you wish to have return in the section on vote 1101, such as Mr. Breithaupt or others who have been very patient in waiting for us to get to any areas of interest to which they might be able to contribute? If not, we could perhaps give them the direction that it is not necessary for them to come back.

I would have called the vote on 1101, but I want to leave the committee with a degree of flexibility in case there is some general topic it wishes to come back and discuss. With respect to specifics, you are not at all upset about not having some of these people come back on that vote.

That being the understanding, I will ask for an adjournment.

The committee adjourned at 6 p.m.

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Ontario

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Official Report of Debates
Legislative Assembly of Ontario

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney-General

Second Session, 33rd Parliament

Monday, February 9, 1987

Speaker: Honourable H. A. Edighoffer

Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, February 9, 1987

The committee met at 3:49 p.m. in room 228.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL
(continued)

Mr. Chairman: The Attorney General has now arrived and I do recognize a quorum. We have representatives from all of the parties here so I believe we can get under way.

As I indicated to the committee informally before the meeting started, we have five hours and 32 minutes left, and we will try again to allocate the times for the various critics as evenly and as fairly as we possibly can.

I should mention at the outset that the critic for the Conservative Party, Mr. O'Connor, was unexpectedly called into hospital on Friday. He would normally have been here. I understand it is not too serious and he will be out before too long but he did have minor surgery. I am sure it was not minor for Mr. O'Connor, but minor in the context of what could be major surgery, I suppose. He will try to get back to us perhaps for the completion of these estimates, but Mr. Partington has agreed to pinch-hit on short notice and he is here to represent the Conservative Party on these estimates.

That being the case, we can resume our estimates, and I will then go to the critics. I should mention we are resuming the vote on 1101. The supplementary estimates that you have on your desks were tabled by the Attorney General on February 4, so the supplementary estimates will be part of our deliberations. We are not on any single line within the ministry. You can discuss any of the areas of interest or concern to you and we will take the votes and, I would guess with the concurrence of the committee, simply stack them in the last portion of our meeting when our time is pretty well at an end.

Mr. Partington, I believe we will move to you at this point, if you are ready.

Mr. Partington: I have a question with respect to the provincial court judges' salaries. I would like to know from the Attorney General what steps he has taken as a result of the impasse with the provincial court judges with respect to the salary disputes.

Hon. Mr. Scott: As you know, Mr. Partington, the law provides for a committee triad, a committee composed of a nominee in essence for the judges, a nominee for the government and a chairman. This committee is established by the Courts of Justice Act. That committee has the power and the ability to consider the salary or other financial questions related to the income of provincial judges and to make a recommendation to Management Board or the executive council.

It has made a number of recommendations. The government did not accept the last recommendation it made. That was a recommendation made in 1985, I think, that the salary of the provincial judges should go to $80,000 per annum. The government did not accept that recommendation and granted a salary increase that was less than that. Thereupon, the provincial judges' nominee to the committee resigned. Until another is appointed, the committee cannot be constituted and cannot do its work.

I have written to and met with representatives of the provincial judges on a number of occasions over the last year to see if there is some way of modifying the committee so they will find it acceptable and will find a formula for determining a salary with which they are comfortable.

I think some headway is being made, but as yet no decisions can be announced. I can tell you, because I think it is history now, the starting position of the judges was essentially that this committee should have the right to decide the salary that would come out of the public tax Treasury. The government indicated that no, it would not accept a committee that had the power to decide the very salary, because the statute said, and we were content with the statute, that the committee would recommend and that left a decisive determination to the government and not to the committee.

I think that part of the dispute is behind us. I think the judges are coming to recognize that there are no judges anywhere in Canada whose salaries are decided by a nongovernmental agency, and I think the judges have now come to accept the proposition that in Ontario the method of determining judges' salaries should be no different from what it is in any other province. We have discussed some other mechanisms about the disclosure of information and so forth that are designed to make them happier with the provincial courts committee, in the hope that

soon they will decide to retrench from their position and appoint a nominee to that committee so it can begin its work.

In the meantime, in the time I have been in office, we have granted two salary increases to the provincial judges, one for 4.2 per cent and one for four per cent, annualized, and their salaries now vary between $78,000 and $79,000, very close to the figure of $80,000 which gave rise to the original dispute a year and a half ago.

I point out to you what I think is currently correct and has been correct over that year and a half: with possibly one exception, the provincial judges in Ontario are the highest-paid provincial judges in the country. The exception is Alberta, and Alberta is an exception, if I can put it this way, not by choice or by any act of charity. It is an exception because years ago it pegged its salary for provincial judges to what superior court judges were given by the federal government. It selected to pay 80 per cent of that figure. When the superior court judges' salaries fixed by parliament went through the roof and went to $105,000, that brought Alberta instantly up above $80,000.

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So, if you leave Alberta aside as an aberration, I am pleased to say that in Ontario, we pay our provincial judges more than any other province in the country and substantially more than some very big provinces. British Columbia, Quebec and so on are included in those figures.

Mr. Partington: I understand that you may have received from the Provincial Judges Association of Ontario a memorandum in the form of an agreement with respect to the resolution of salaries, how they are to be resolved. Could you share the terms of that with us and whether you agree with it or not?

Hon. Mr. Scott: They have submitted a number of proposals at various stages. I would not want to deliver to you the memorandums they have provided to me without their permission, but I can tell you that the memorandums they submitted initially took a very strong position, that a committee should be established that had the power to command the public tax dollar without reference to government or Management Board of Cabinet; that an independent commission should be established which, in effect, fixed their salaries.

We were not able to agree to that because there is no other government in Canada which has given up the capacity to fix salaries in that way. We are now down to discussing a more modified list of requests, most of which are procedural in their nature; how they can be satisfied that the kinds of presentations they are making to the committee are effectively dealt with and so on. I am very optimistic that, over the next couple of months, we will come to some arrangement which will allow them to appoint their nominee.

Mr. Partington: I think it was raised in the House that there is a backlog in cases in provincial criminal and family courts. Do you intend to appoint additional judges to address this backlog or do you not see that the backlog is creating a problem in the justice system?

Hon. Mr. Scott: There is a backlog. Let me make a couple of observations about it. There is a backlog in every court in the province. Just between you and me, Mr. Partington, there has been a backlog ever since I began to practise law 25 years ago.

There are a couple of observations to be made about that. All of the time I have been practising law, I have been told annually that the way to deal with the backlog, which has always existed, is to appoint more judges or to build more courtrooms. Lickety-split, for 25 years, we have been appointing more judges and building more courtrooms, with the result that we now have more judges and more courtrooms than any other country in the Commonwealth, and probably any other country in the western world. What we are now beginning to learn is that the defects in our system which give rise to delay in the trial of cases are not, as we for so long thought, a function of there being no rooms to decide the cases in or no people to hear the cases, but functional. They have to do with the very way we decide cases.

An interesting example of that is that in the city of Ottawa it has been asserted that there is a two-and-a-half-year delay for civil nonjury cases in the Supreme Court. If by that you mean that the oldest, undecided, untried case on the list is two and a half years old, then that is correct. But if you mean to say that every case enlisted for the sittings for trial is two and a half years old before it is tried, then the statistic is not accurate. At the last civil, nonjury sittings of the superior court of Ottawa, they were trying cases that were set down for trial six weeks ago.

I think what we know first of all is that this question of delay is no longer simply a question of numbers of judges and courtrooms, though that will always be an important consideration on a local basis. It is a functional question. That really is what the Zuber inquiry is all about. How can we alter the functional performance of our system so these inherent delays are reduced?

With respect to the appointment of judges, I have with either speed or measured pace, depending on how you want to characterize it, moved to fill every vacancy that exists in the judicial list. Some of these vacancies have been allowed to go on longer than you or others might think right, but I have moved to fill every vacancy.

I have not moved to increase the complement of the court and I do not propose to do so, unless there is a certifiable emergency, until Mr. Justice Zuber reports. That is because I do not believe, following his report, that we will necessarily need more judges than we have now. If I move to increase the complement of the family court or the provincial court (criminal division), then I will be unable to reduce it without having on hand a number of judges who will have to be red-circled. That is the attitude I have taken.

Mr. Partington: Just one more question: when is the Zuber report expected to be completed?

Hon. Mr. Scott: The original date we hoped to have it was April, but I think it will not be available now until the summer.

Ms. Gigantes: I had understood that at the last meeting of the committee we passed vote 1101. is that correct?

Mr. Chairman: No; if you agree with this, we will pass them all at the end. I am leaving it open for you to discuss any part of the budget, so everything is under vote 1101 at this point.

Ms. Gigantes: Fine. I will then proceed to my next listed question which has to do with vote 1102. There are two items in there I would like to ask about. One is the systems development services item which is listed for an expenditure of $6,719,000 for 1986-87. We have supplementary estimates that would add $2 million to that, if I am reading correctly.

Hon. Mr. Scott: I might ask Mr. Peebles, the general manager, to deal with this, which I think deals with automatic enforcement.

Mr. Peebles: You are right. So far, the additional money is mainly the result of the systems work related to that program.

Ms. Gigantes: When I look at the accounts going back through 1984-85, we had a budget of less than $2 million. Then we moved to a little over $2 million in 1985-86. Then you were going to add $4,557,000 in 1985-86 and now we are going to add another $2 million.

Could I have an account of what is so difficult about maintenance enforcement? I am absolutely fascinated by the fact that when we passed this bill over a year ago, and it is one of the key pieces of legislation that we worked on, we hoped it would address very basic financial problems both women and children face in this province. I do not for the life of me understand what has been happening.

Hon. Mr. Scott: Is your concern about the size of the allocation or the time frame?

Ms. Gigantes: I think they may be connected. This is a mystery I would like to clear up.

Hon. Mr. Scott: Maybe they are. Perhaps I can tell you how we perceive it. The scheme will be the largest enforcement operation ever undertaken in Canada, not only in terms of number of orders enforced, because Ontario would naturally be larger than Manitoba or Alberta, but also in terms of the number of uptake stations, if I can call them that.

We have here an enormous province with probably 30 or 40 significant communities, and we want creditors to be able to go to a depot relatively near their community to indicate their desire to have the order enforced.

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As I understand it, orders made after the act will automatically be filed. The ones made before the act will not; they will require some kind of manual filing. You will have to have uptake, the accumulation of the information about the order that is being enforced. You will then have to have a system that will contact the debtor and, if he does not respond, contact his place of employment or commence garnishment. As part of that system you are also going to have to have a system that will receive the money, catalogue it in the sense of recording it, develop a statement of how much is owing and how much has been paid out and then remit the money to the beneficiary. It is a very complex operation.

It is our concern to get this in place by the summer and to get it working right off. The trouble with any kind of scheme like this is that if it does not work when it starts, you attract a good deal of criticism. We want to be sure it works. We have had the advantage of getting some new people into the department to help us. We have had the advantage of looking at the Manitoba and Alberta experiences. We are optimistic that it can be done.

Ms. Gigantes: There are two areas of questioning I would like to pursue. One is to go into a bit more detail about the physical transactions, messages, communications and orders that will be carried out by this system and how they happen. Second, why is it that when we

discussed this bill way back in late 1985, it was your hope that we would have the system in place in the fall of 1986?

Hon. Mr. Scott: That was my hope, and that hope turned out to be wrong, as a number of my hopes about government and the parliamentary system have.

Ms. Gigantes: Could you explain that to us? I have had informal explanations on this and I am still puzzled by it.

Hon. Mr. Scott: One of the difficulties was that the bill represented a policy that was desirable and attractive. Looking back on it, there was some real question about the extent to which a thorough analysis had been done of how it would be implemented. A bill like this is relatively easy to write. It just announced that every order is going to be enforced.

Ms. Gigantes: The bill was tabled before your government came into being.

Hon. Mr. Scott: I know it was. It seems to me that this is the problem. It was tabled in the last days of the old government. It was, no doubt, an attractive initiative for them. They tabled it, and I am not satisfied in my own mind that any real work had been done at that stage about how this system would work. It is one thing to announce that you are going to enforce every judgement in the province. It is another thing to have a system to make that actually happen.

The sense I have is that the announcement was made in the three weeks between the election and the change of government, and it was an attractive announcement. We thought it was attractive and we took it up, but not much had been done about devising a system to make that promise capable of fulfilment.

That obligation fell to us after the bill was passed. Because of the nature of the province, it was, in substance, a more difficult operation than it was in either Alberta or Manitoba, where essentially there are either one or two large urban centres of population.

Ms. Gigantes: When we discussed the bill, we had some discussion about the proclamation date, and you suggested to the committee that there might be a choice to be made about whether one went to a manual system or, I guess, first to a filing card system and then built up to an automated system. You said you would have to make a choice on that. It was more expensive to go with two systems, but you would have to consider whether you were going to ask for an automated system right from the start. Did you ask for an automated system right from the start?

Hon. Mr. Scott: Yes.

Ms. Gigantes: Even today, when you describe it, you say, "As I understand it, each order made in Ontario will be automatically put into the system."

Hon. Mr. Scott: Let me tell you one of the questions that had to be decided. It is full of complexity and difficulty, and the administrator of the plan, who is sitting at the back, will confirm this.

The first question is whether you have a centralized or regionalized system. That is not a simple question. Many were of the view–I confess I was originally–that you should have a totally centralized system, have the whole uptake at computer points across the province but have the whole operation run out of a building in Toronto. Others thought you should have a highly decentralized system in which people in Kenora could deal with people in Kenora and did not have to refer to Toronto, and there were some people who thought you should come somewhere in between. Each of these choices dictated significant changes in the system.

Ms. Gigantes: What was decided on that?

Hon. Mr. Scott: It was decided we would have six regions.

The second question that caused a great deal of concern was whether we should have a pay-through or a pay-to system. Essentially the distinction is whether you ask the debtor to send his cheques into the central region and then turn around and mail or deliver those cheques out to the creditor, or whether you have the debtor send in his cheques to the central system and the central system deposits them, does all the banking and sends out a system cheque to the creditor.

I must tell you frankly that my initial reaction was that we should have a pay-through system. The risk that the cheque would be uncollectable would fall on the creditor. You would simply turn around, mail the cheques you received out to the creditor and say: "You deposit them. You do the banking." We have now concluded that in fact a pay-to system is better, fairer and more efficient and that we should do that.

Ms. Gigantes: There was never a doubt in my mind as we considered that bill that in fact the state would assume the obligation to make the payments and would look after collecting for those.

Hon. Mr. Scott: It may not have been a doubt in your mind, but your mind was not my mind and your mind was not reflected in the bill,

because the bill does not speak to that question. Therefore, in administrative terms we had to make a judgement about which kind of system we were going to run.

Ms. Gigantes: I think I am going to look back at the debates we had around that, because my understanding was that that was the information we were provided.

Hon. Mr. Scott: I think you are wrong about that. It may have been the information you had, that you assumed, but I do not think that issue ever came up. Indeed, I think if it had, I would have been on record as favouring a pay-through system, because that was the system I favoured until very recently.

Ms. Gigantes: But it would not work.

Hon. Mr. Scott: It would work. It would have its difficulties; it would have its downsides, just as the pay-to system has its downsides.

Ms. Gigantes: The number of bounced cheques in that kind of system would make it–

Hon. Mr. Scott: It depends which downside you find most bearable. I am persuaded that each system has its downsides. In the pay-to system, I envisaged a system in which the husband–it will be him usually–would mail in the cheques. The banking would be done by a central agency in Toronto or the region and would have to wait until the cheque was cleared. It would be a month before the wife got the cheque. The wife would be looking for the money. The husband would say, "I already sent in the cheque," the government would say, "We have the cheque in here somewhere, but we do not know where it is," and the whole system would just create antipathy.

I was persuaded that this was not necessary, that you could run a system in which the government bore the collection risk and got the cheques out as soon it got them in.

Mr. Gigantes: When did you make that decision?

Hon. Mr. Scott: Oh, in the last little while.

Ms. Gigantes: Can you be a bit more precise?

Hon. Mr. Scott: No. That is about it. I cannot really remember the date. Everything is moving so quickly now. Decision after decision is made, and I pile them one on the other and cannot remember when the last one was made.

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Ms. Gigantes: Instead of asking you to rack your memory, we could ask somebody who is involved in the implementation of this system when the–

Hon. Mr. Scott: They often do not recognize they have made a decision until I have hammered them with it four or five times, so they give a later date than I would give myself.

Ms. Gigantes: If you could assist me, I do not know whom I should be asking.

Hon. Mr. Scott: Me.

Ms. Gigantes: Perhaps you could guide me. I would like to know from people responsible for developing this program, which has apparently caused us and the ministers a lot of grief, whom we should be asking about when the decision was made that it was going to be a pay-to system.

Hon. Mr. Scott: I think it was made by the staff about four months ago and made by me about two or three months ago. The staff had a little trouble with me, but they were persistent, and I think they were right. But those are only two of the questions you would have to approach in designing a system.

Ms. Gigantes: Yes.

Hon. Mr. Scott: The critical thing, as far as I am concerned, is that when the system is in place, it has got to work. In so far as it is humanly possible, I do not want any complaints about the fact that there is a screwup or a gumup, or the cheques are not coming through, or it is not happening. Then the whole purpose of doing it will be missed.

Ms. Gigantes: Very desirable.

Mr. Chairman: Before you move on, Mr. Partington has a supplementary on the same item.

Mr. Partington: With respect to that, with the government honouring the cheques before they clear the banks to the government, that is only with respect to cheques received, not with respect to fulfilling an order, is it?

Hon. Mr. Scott: Oh, no, it is only cheques received.

Mr. Partington: Right.

Ms. Gigantes: Could we have little bit more detail on exactly how the system is going to operate, how long will it take for a cheque not be received and some activity to start up?

Hon. Mr. Scott: I take it the first step will be a letter to the debtor asking him to make the payment within a stipulated time, failing which a step will be taken to collect. The step taken normally to collect will be garnishment, and the normal court rules with respect to garnishment will apply.

As you know, in a garnishment proceeding the garnishee is entitled to a trial of his garnishment

if he wants one. It is not a persistent request. That is to say, the employer usually asks that only once, if at all, or asks it in the event that he is not an employer, so it is not likely to present a major difficulty. But I cannot really answer that kind of question. Each case will be different.

I suspect the major delay is going to occur in those cases where the debtor is not working or where his whereabouts and his place of work are not known. Certainly the experience in Manitoba and Alberta has been that once you get in touch with the creditor and his cheques start coming, they come with very considerable regularity.

Ms. Gigantes: Does the garnishee order remain in effect ad infinitum?

Hon. Mr. Scott: No, a garnishee order is an individual order, as I understand it. It certainly used to be when I got them. You have to garnishee with respect to–

Interjection.

Hon. Mr. Scott: The law has changed. There are now continuing garnishees that you can get, but of course, if the debtor changes his place of employment, you have to get another one.

Ms. Gigantes: As far as I know, the Manitoba system does not have a letter to the debtor built into the system. In other words, if a cheque is missing, there is not a letter that goes out to the debtor? There is immediate action–

Hon. Mr. Scott: I am not sure about that. I would not envisage a letter in every case, but you have to remember that what is going to happen is that a creditor is going to come in, just having come from court, with the order made automatically filed. The debtor may not have been in court when the order was made, may know nothing of it because he has decided not to contest it or may have been there unrepresented and may not know precisely what to do.

I do not propose to regard it as abusive to write him a letter asking whether he would please send us a bundle of post-dated cheques for the next 12 months in the following amounts, payable to the order of the accountant or whoever; and if he does not do that, we will then have to take steps. But I do not envisage the necessity of writing a letter each time there is a default. Those cheques will, after you get them, be presented to the bank at monthly intervals.

Ms. Gigantes: What happens if cheques bounce?

Hon. Mr. Scott: If cheques are received and bounced, the money will already have been paid in respect of that cheque, as part of the pay-to operation, to the creditor. Then the government is collecting by garnishee on that cheque for itself, and the government's collection will be a prior claim on the garnishment.

Ms. Gigantes: Will that be a single garnishment?

Hon. Mr. Scott: It depends how many times the government pays out a cheque when the cheque bounces.

Ms. Gigantes: What I am getting is a sense that, in fact, this system is not thoroughly defined yet in the minister's mind.

Hon. Mr. Scott: It is quite thoroughly defined. The mechanism has been a matter of very serious contention, because the other provinces have views about it that we have found very helpful.

It is going to work precisely the way the present system works. We are are not altering the law. What we are doing is taking over the management of the creditor's account.

Ms. Gigantes: There will be no point at which the person who is receiving maintenance will have to indicate that she–usually she–wishes a garnishment to occur.

Hon. Mr. Scott: No.

Ms. Gigantes: Can we go back to the question of the existing maintenance orders–

Hon. Mr. Scott: And in the same way, there will be no opportunity for that person to make a contrary view known. As long as the order is there for enforcement, it is going to be enforced.

Ms. Gigantes: This is for new orders?

Hon. Mr. Scott: Yes.

Ms. Gigantes: Can we go back to the question of the existing orders?

Hon. Mr. Scott: Yes.

Ms. Gigantes: How will those be handled?

Hon. Mr. Scott: We are requiring anybody who wants an existing order to be enforced to file it with the enforcement agency.

Ms. Gigantes: Why is that?

Hon. Mr. Scott: The problem is that if you filed automatically all orders that have been made in Ontario, the only way you would find all orders that have been made in Ontario, presumably, is to search all the court records and get copies of the orders that have been made. You would not be able to tell, for example, whether the creditors and the debtors were alive. You would not be able to tell whether the payments for their children had been paid off because the children had grown up. I suppose you could search their birth dates. You would not be able to

tell whether the parents had reconciled. You would not be able to tell a whole lot of features that you need to know. You would get orders going back to as far as our records go, perhaps to the turn of the century, and the vast majority of those orders are extinct by virtue of the passage of time or are orders about which the parties have developed a resolution that is satisfactory to them.

What we propose to do is to say, "If anybody has an order out there and is having trouble enforcing it, or has not been able to enforce it or what have you, bring it along and we will do it for you."

Ms. Gigantes: Can I ask what that will involve?

Hon. Mr. Scott: It will involve an effort to communicate effectively with those people through family court offices and through lawyers' offices so that they know they have the right to do this. Then once they exercise that right, the order will, as I understand it, be enforced, just like any order made after the act. The communication plan is relatively easy, because most of the people who are not getting the money they are entitled to get are aware of that fact and are complaining about it to lawyers, to family court officials, to family counsellors, to the official guardian, to their parish priest or to somebody. The chances, therefore, of an unenforced order being overlooked because the creditor did not know what to do are, we hope, reduced.

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Ms. Gigantes: The other thing I find difficult to understand is where the money goes in this system. Is it for programming? Is it for equipment?

Hon. Mr. Scott: It is for both, and for bodies. We are setting up six regional offices out of which the system in the regions will be run. The information is computerized, and as we are now learning, computers are wonderful but computers also require computer operators, a matter of fact that was initially overlooked when we all went wild about computers. Computers do not replace people. They simply give more people more things to play with than they had before. Apart from the computer operation, it will have its labour-intensive components. There will be the necessity of taking garnishment proceedings. There will be the necessity from time to time of appearing in courts as agent for the creditor to enforce the garnishment.

Ms. Gigantes: If we leave aside the hardware and the software involved, what would you expect the ongoing costs of the system to be on an annual basis? Can you do that? Is part of this money for the operation of the system?

Hon. Mr. Scott: Our present estimate is about $11 million a year.

Now, Mr. Chaloner points out that the motive for doing this is not only because it is right to do it, but also because we hope it will save a substantial amount in welfare payments.

Ms. Gigantes: Yes, of course.

Hon. Mr. Scott: We hope that will more than offset the actual cost. However, the cost is likely to be in the neighbourhood of $11 million. We cannot predict this with certainty for a couple of reasons. First, we do not know to what extent there is going to be major difficulty in enforcement. The Manitoba experience is that debtors give in very quickly. As soon as they see the system in place, they start paying. If that experience is duplicated here, that will reduce the cost. If Ontario debtors turn out to be of sturdier stock, more resistant to compliance, we will obviously have increased collection costs. The second factor that will either increase or decrease the cost is the extent to which there is uptake in orders made before the act. We simply cannot at this stage predict, with any measure of accuracy, what that will be.

Ms. Gigantes: Will there be an extraordinary cost in the first year because of that?

Hon. Mr. Scott: I do not really know. There is no information on this. My guess is that people who have pre-existing orders that are not being enforced at the time the system comes into effect will probably bring them around within the first year.

Ms. Gigantes: How far back will you go on collection of existing credits?

Ms. Taylor: There is no limit.

Hon. Mr. Scott: The voice you heard last was the voice of Gail Taylor, the director of this program. There is no limit under the act. We are giving, I must tell you frankly, some consideration to whether there should be a limit. However, there is no limit under the act.

Mr. Chairman: I believe Mr. Partington has a supplementary.

Mr. Partington: It is a new question, Mr. Chairman.

Mr. Chairman: We can move to a new question then.

Mr. Partington: Mr. O'Connor may have touched on this while I was not here, but I would be interested in knowing from the Attorney

General his current position with respect to the inequities in the justice system in the provincial court civil division with the $3,000 limit in the city of Toronto and the $1,000 limit in the rest of the province.

Hon. Mr. Scott: This is a question that causes a good deal of anxiety because businessmen and others who have collections to make and who live outside Toronto are very anxious to get the advantage of the expanded limits we have in Toronto that have taken claims from $1,000 to $3,000. As I explained last year, the problem is that there is, in fact, no provincial court civil judiciary outside Toronto and Hamilton. The permanent, full-time provincial court civil judiciary is composed essentially of six judges, I think, and a chief judge. They go down to St. Catharines but they are basically Golden Horseshoe types who sit in Toronto, Hamilton and St. Catharines. There are none in Timmins and Kenora and Thunder Bay and Sault Ste. Marie and all across the rest of the province.

In those jurisdictions, outside what I will call greater Toronto if you will forgive me, the judging in the provincial court civil division is done entirely by lawyers acting part-time on a per diem basis. They form the judges of the court. The problem is that under the act, if you want to go to $3,000, a lawyer cannot do the judging for you. You have to have a permanent judge. To carry the $3,000 limit beyond Toronto, Hamilton and St. Catharines to the rest of the province will involve legislative authority for and the appointment of something like a dozen or 15 judges; full-time, new, permanent, everlasting appointments. As you know, with the judges come the judges' chambers and the courtroom, and the this and the that and the secretary, and all the panoply that is necessary for a judge to do his work. Therefore, we have found that the cost of going to $3,000 is very high. Frankly, the Treasurer (Mr. Nixon) has not found it within his budget to do that.

In an effort to solve the problem, and I do not think we have had a reply yet, I have made a proposal to the chief district court judge in Ontario. The proposal fundamentally is this: "You district court judges in the Sault and Thunder Bay now are hearing all cases between $1,000 and $3,000 in your district because they cannot go to small claims court, so they have to go to the district court in their pleadings and so on. If you will agree that you will hear those very same cases in the small claims court, which is what you used to do, we can then move to this $3,000 limit without any significant cost."

That should not increase the work of the district court judges because they are already hearing those cases when they appear as district court cases. It will mean that we do not have to appoint a dozen or 15 provincial court civil judges all across Ontario and it will allow us to expand the limit. Chief Judge Lyon has reported to us that he is canvassing his brethren as to whether they will take on this responsibility. When I hear from him with a final report, you can be sure I will let you know.

I draw to your attention one thing that the older members of the bar will remember. We are not making an unusual request of them. It used to be that the district court judge heard all those cases. We are simply saying: "You are hearing them now, judge. Why not hear them in the small claims court? It will not add to your work load and it will not add to the public cost. People who have cases between $1,000 and $3,000 will get an expeditious, highly professional resolution of their dispute."

Mr. Ferraro: Why would they say, "No"?

Hon. Mr. Scott: I do not know, Mr. Ferraro. I cannot imagine–

Mr. Gigantes: I do.

Mr. Ferraro: It depends on what relationship you have with the judges.

Hon. Mr. Scott: The district court judges and I have an excellent relationship. I do not pay them.

Mr. Partington: You mentioned that the system could be in place, not only in Metro but also in Hamilton and St. Catharines. Has it been put in place in Hamilton and St. Catharines?

Hon. Mr. Scott: No, it has not.

Mr. Partington: Will you? You acknowledge that there are judges in those centres capable of carrying out their duties.

Hon. Mr. Scott: There are not enough.

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Mr. Partington: Are you prepared now to extend the system to Hamilton and St. Catharines?

Hon. Mr. Scott: We do not have enough at the moment. If the district court judges in Hamilton or St. Catharines will agree to hear the cases in small claims court rather than in district court, I will institute that immediately. Indeed, we could do it on a district basis. For example, if you were able to persuade the district court judge in St. Catharines to hear these cases up to $3,000 in the small claims court, it is quite conceivable that we would not have to wait for the rest of the

province. We could do it right now in St. Catharines.

Mr. Partington: I understand we have Judge Kingstone in St. Catharines who is qualified to hear cases to $3,000. Clearly, the system could be put in place in St. Catharines and district under Judge Kingstone.

Hon. Mr. Scott: Is he a district court judge?

Mr. Partington: He is a provincial court civil division judge, but I understand he hears cases in Toronto.

Hon. Mr. Scott: The problem is that the six or so provincial court judges move around a good deal in that area. I do not know that we could meet all the needs of expanding the court with one judge in one centre. If you expand the jurisdiction to $3,000, it is our current experience that it increases the work load of the court by 25 per cent to 35 per cent.

Ms. Gigantes: That is why they will say, "No."

Hon. Mr. Scott: The district court judges should not say, "No." They are hearing those cases right now.

Ms. Gigantes: Our experience in Ontario has been that once you put in the small claims court coverage, you have cases where none existed before. People know they can go to small claims court. Exactly the same thing will happen as soon as you provide this for people who have suits between $1,000 and $3,000. They will come forward, whereas previously it has been too expensive.

Hon. Mr. Scott: Even assuming that is so, it is going to even out. The time involved in the adjudication of a district court case of $2,500, with the pleadings, discoveries, production of documents, motions, pre-trial hearings and all that business, is going to be offset by moving that very case to the small claims court where there are no pleadings, discoveries or production and a very modified pre-trial hearing. In that circumstance, even if your expectation is justified, the matter will be evened out.

Ms. Gigantes: I wonder.

Hon. Mr. Scott: Anyway, I will let you know as soon as we hear from the district court judges.

Mr. Partington: You mentioned the fact that businessmen and collection agencies would want this jurisdiction. Clearly, the average citizen and the debtor want it too because they are at the extreme disadvantage of not being able to write off legal costs, and in effect are being intimidated by the system. I think Ms. Gigantes would agree that all those people deserve the same amount of justice that people in Metropolitan Toronto get.

Mr. Ferraro: We all agree, not just Ms. Gigantes.

Mr. Partington: Will the Attorney General look into seeing whether the system could be extended to Hamilton and St. Catharines, apart from the district court judges, acknowledging that judges such as Judge Kingstone in St. Catharines are available and do not have to be appointed?

Hon. Mr. Scott: I am perfectly prepared to look at it. The difficulty is that we would have to establish whether Judge Kingstone in St. Catharines sits exclusively in St. Catharines. I do not believe he does, but he may. Then as we moved to this, we would have to determine whether he alone, without assistance, would be able to hear the 30 per cent increase in cases that would be produced. Does he have a 30 per cent gap in his timetable that he can fill up with the new cases? If he does not, the first thing we are going to hear is that he needs some help. That would have to be looked into. The easy solution is to get the concurrence of the district court judges.

Mr. Partington: In conclusion, either way, I submit that this matter has to be addressed because, as you know, we recently dealt with Bill 7 and amended the area dealing with discrimination for various reasons. It is a pity we left out geographic location. It is time the rest of the province had the same justice system as Toronto.

Ms. Gigantes: He is betting that somebody who does not have the money to go through the regular court process over a $2,500 suit does not have the money to launch a charter case either. That is suggested by the probabilities there.

Mr. Partington: That may be the other aspect.

Hon. Mr. Scott: You may want to turn to legal aid then. Are you ready to turn to that?

Ms. Gigantes: I have one other question on the same item. If you have made a request to the Treasurer to consider this–

Hon. Mr. Scott: I did not say that. I simply said that the Treasurer decides matters of this type, as you know.

Ms. Gigantes: Have you submitted the budgetary request?

Hon. Mr. Scott: I am not entitled to tell you what has been submitted and what has not been.

Ms. Gigantes: If you were to submit one, how much would it be for?

Hon. Mr. Scott: It would be $4.5 million to $5 million.

Ms. Gigantes: It seems like a very small price to pay.

Hon. Mr. Scott: So it is if you are not the government. When I was in opposition, I did not think there was any limit to these things and everybody should pay right up.

Ms. Gigantes: Yes, but the more we discover about your estimates, the more we discover how few of them the Ontario government actually produces money for.

Hon. Mr. Scott: You are right. We are trying to run this as prudently as we possibly can. There is no question about that. I think that is characteristic of other ministries as well. We do not feel we got in here to splash around other people's money. We got in here to try to see whether we could make the system fairer than we thought it was and do so with efficient management of the costs.

Ms. Gigantes: I am just going to underline Mr. Partington's comment that the system is not fair and is seen not to be fair. Aside from residents of Metro Toronto, you cannot go to small claims court if your suit is larger than $1,000. That is not fair, period.

Hon. Mr. Scott: I have given it some thought, I must say. I might just ask the committee what it thinks. What would you think if we said, for example, that all claims under $20,000 should go to small claims court?

Ms. Gigantes: Just give equity to start with.

Hon. Mr. Scott: Ms. Gigantes, what would you think about that?

Ms. Gigantes: I would have to give it some consideration. If you want me do that and if you pay me for doing it, I will do it.

Hon. Mr. Scott: Mr. Partington.

Mr. Partington: As to answering that question–

Hon. Mr. Scott: I would be delighted to know what you think about it.

Mr. Partington: I suspect that perhaps the $3,000 limit, in view of inflation since it was first in place, can be increased. Apparently, the more complex the case and the more at stake, the more it is likely that the parties will seek legal counsel and the case will require greater deliberation and consideration by a judge.

Hon. Mr. Scott: You will want to consider that very carefully because if you go to $3,000 across the province and create the judges–if the district court judges do not participate–you create a provincial civil division across the province. You then have in place the superstructure that permits you, and maybe in economic terms requires you, to go to $10,000.

When I was in private practice, the telephone company would come in and say, "You have five lawyers now, Mr. Scott; you have to move to a new telephone system. You cannot use these buttons any more and it is only going to cost you $35,000." You would pay the money for the telephone system and then they would say, "Now that you have bought it, you might as well go to 15 lawyers," and you say, "I did not want to go to 15 lawyers." They say, "You now have the hardware to go to 15 lawyers."

We had better understand that if we do this, we may be creating, and I am not opposed to it, the hardware, the personnel, to vastly expand the small claims part of the system about which there has yet to be a significant public debate.

Mr. Partington: Has there been pressure to expand it in the city of Toronto with the small claims jurisdiction in place?

Hon. Mr. Scott: I do not think there has been. There has been very little pressure of which I am aware to expand it beyond $3,000. It will be something Mr. Justice Zuber will want to consider, but I presume now that it is there, why should it not go to $5,000 or $7,000?

Mr. Partington: Is that not what has happened in the past? It went from $200 to $400 to $800. It has risen with the rise of our inflationary economy.

Hon. Mr. Scott: You will remember the difference between the small claims court and the district court is no pleadings, no discovery, no production before trial and rudimentary pre-trial. The public question becomes: At what level do we say those requirements of the adversarial process are necessary or are fairly required to be available? If you have a case of $15,000, should you be able to ask your opponent about his case before you go to trial? In the small claims court you cannot; in the District Court you can. I think the bar and the users of the system have not yet begun to look at that question in any depth, partly because we have not gone to $3,000 across Ontario.

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Mr. Chairman: Is there anything further on that subject before we move on?

Mr. Ferraro: Can I just add something the Attorney General knows already? I do not want him to think this is a partisan beef. I think

Guelph–indeed, all locations–should be treated the same as Toronto.

Hon. Mr. Scott: I am prepared to treat Guelph better.

Mr. Ferraro: Wonderful.

Hon. Mr. Scott: I understand. We get an expression of opinion about this from every community in Ontario. The real question is, how should it be prioritized in the budgetary items we have to deal with? How should it stack up against courthouse repair, the appointment of a new justice of the peace or the expansion of the family court? Those are the judgements we get paid to make.

Ms. Gigantes: What I am looking at is along the same line, in vote 1106. I assume we have been looking at the budget, whatever it is, for courthouse renovations. I wonder if we could have those moneys associated with the new ones rationalized and prioritized and the courthouse renovation program identified for us.

Mr. Chairman: Are you looking at vote 1106?

Ms. Gigantes: I am. Is that where I should be looking? It depends which book you are on. I am on page J22 of the white book. I assume we are on vote 1106, item 1.

Mr. Chairman: Program administration?

Hon. Mr. Scott: If I can put it this way, this budgetary item is the small repair account. The question of courthouse construction, major or minor, or courthouse leasing, major or minor, is found in the Ministry of Government Services estimates. Our relationship with Government Services is that we are the client, but it has the budget to do the buying or the renting for us. This figure is not for courthouse construction; it is basically courthouse housekeeping and repair.

Ms. Gigantes: Does that include repair to properties owned by Government Services?

Hon. Mr. Scott: Yes, if minor. We change light bulbs, do a little eavestrough work, put up a shingle or two, put up a partition within bearing walls and do some painting; but if we want to build on a room or a wing or if we want to rent new space or build a new building, all that is the responsibility of Government Services.

Ms. Gigantes: Have you worked out the priorities in the program you are talking about, which would increase or improve facilities in a significant way.

Hon. Mr. Scott: Without any disrespect to any predecessor, let me describe what I found when I came to government and what we have proposed to do. We have 46 or 48 districts in Ontario, each of which has three levels of courts, for which we provide courthouse accommodation: Supreme Court, District Court and provincial court. We therefore provide courts of one description or another in 235 or 245 locations in Ontario, running all the way from the city of Toronto to the town of Madoc.

Many of these courts are located in buildings that the Ministry of Government Services owns, but many of them are in rented quarters. Many of the quarters are rented from regional or municipal governments, governments that have no funds to repair or maintain them. Many of them, I think half, are in quarters that are over 100 years old, where the cost of repair, because of stone wall construction and a variety of other factors, is extraordinarily high. I think almost all of them are individually designed rather than modular in construction.

That was the plant we found. Without any disrespect to any predecessor, when we came to office, I found two other things. The first was that there appeared to be very little integration of the provision of services within one district. For example, in the district of Lanark there would be a superior court facility, a District Court facility and a provincial court facility–indeed, three provincial court facilities, or two, at least: criminal and family.

There was very limited capacity to look at the system as a whole. We had people who could tell you how much space was being used by the Supreme Court of Ontario; we had people who could tell you what space was being used by the District Court; we had people who could tell you about the provincial court. We did not have people who could look at the whole picture as effectively and say: "Look, the provincial court has extra space. Why do we not get the Supreme Court to use it?" In a corresponding way, there was a limited capacity to look at budgets across the whole county. That was the first difficulty.

The second difficulty is that, in so far as there were priorities in existence and priority lists of projects, I had some difficulty rationalizing the priority selection that had been made. I have some difficulty, for example–I will be perfectly candid–rationalizing the selection of Orangeville as a priority for courthouse expansion. That was a decision taken by the previous government. I do not complain about it; it just is not the priority I would have selected on a needs basis. I am not saying it is wrong.

I have some difficulty seeing that the provision of two robing rooms at Thunder Bay is a priority

in light of the needs of the service across the whole province. I would like there to be two robing rooms at Thunder Bay, but as everybody's offices are only three blocks away, it may not be as critical as getting another courtroom in the county of Peel.

What we said was that we were going to do two things, and this led to our statement of November: We were going to try to look at the system as a whole across the three levels of court, and from thence came our slogan, "A courtroom is a courtroom," which I will expand on in a moment; and we were going to do an investigation of all the major counties and attempt to prioritize the courthouse needs in a public way. That process has begun.

The point of "A courtroom is a courtroom" is interestingly illustrated by the city of Ottawa. There is a brand new, beautiful courthouse in Ottawa.

Ms. Gigantes: I have heard of that.

Hon. Mr. Scott: The question is, what is inside that courtroom? Are there four Supreme Court courtrooms, 10 District Court courtrooms and 16 provincial court courtrooms? Or are there 27 courtrooms to be used by whichever division of the court needs them?

The first answer is the traditional answer that judges, lawyers and administrators have always given: that a courtroom belongs to the division of the court that traditionally sits there. The answer we propose to give is, no, the courtroom is a facility made available by the state, and it will be used without discrimination by whichever court needs it.

We will allow a certain amount of seniority. The Supreme Court should have first druthers on a courtroom, but if it is empty it can be used by anybody else. That is, in certain parts of the province, a revolutionary theory, which you denounced as common sense in the House. I do not know what damage you did.

Mr. Chairman: Before you go ahead–

Ms. Gigantes: We have a vote, have we?

Mr. Chairman: I thought we had a quorum call, but I understand it is a division on second reading of Bill 189, which is the mining tax bill. That being the case, it may be necessary for us to adjourn to go to the vote and then resume immediately following the vote.

I regret this interruption, but we have no choice.

Hon. Mr. Scott: Does the time count?

Mr. Chairman: No, the time does not count, sir. We will have to shut the clock off as of now.

The committee recessed at 5:02 p.m.

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Mr. Chairman: We will resume where we left off. Ms. Gigantes had the floor at that point and was about to pose a question, as I recall.

Ms. Gigantes: I have forgotten exactly where we were in all this discussion.

Hon. Mr. Scott: I had just described the new court construction priority-setting process.

Ms. Gigantes: You said the program was now under way.

Hon. Mr. Scott: Yes.

Ms. Gigantes: Is it entirely separate from the review that Mr. Justice Zuber is undertaking?

Hon. Mr. Scott: Yes.

Ms. Gigantes: When we look at the court facilities that we have around Ontario, who pays the rent on the rented facilities? Does it come out of your ministry?

Hon. Mr. Scott: No, it is paid by the Ministry of Government Services.

Ms. Gigantes: Have you set an amount in this fiscal year that will be devoted to fulfilling the findings of the priority renovation scheme?

Hon. Mr. Scott: No, Government Services would do that. It is on the basis of whether resources are made available to that ministry by the Treasurer (Mr. Nixon). We will get some sense from year to year of what it may have for us. What we propose to do when our study is over is to be able to say, with some backup, "Look, our first priority is to do this; our second priority is to do that; our third priority is to do thus and so." The extent to which we are able to fund any of those things is, in a certain sense, beyond our control. If Government Services were to give us $100 million, we would be able to do four times as much in one year as we are now able to do.

Ms. Gigantes: Presumably you would make an argument with the Treasurer, on behalf of the justice system, about what should be required?

Hon. Mr. Scott: Yes.

Ms. Gigantes: Do you have any sense at this stage of what you would be looking for in terms of money?

Hon. Mr. Scott: I will be looking for as much as I can get. I think under the last years of the Progressive Conservative government the allocation was about $18 million to $20 million a year, averaging in there somewhere, for major and minor construction.

Ms. Gigantes: That would include most of the $7.7 million.

Hon. Mr. Scott: No, the $7 million has nothing to do with that. The $7 million here in our budget is for what is identified as repair.

Can you explain that?

Mr. Peebles: I will have a go at it. The difference in the last year, or in the year we are now in, the $3.5 million, was a one-shot effort directed primarily at Ottawa and Orangeville.

Ms. Gigantes: Can you show me where that $3.5 million is?

Mr. Peebles: If you go to page 71 of the yellow book, it is set out in a little more detail. The total amount is roughly $7.7 million. Two lines up from the bottom, you will see the accommodation projects broken out.

That shows the amount in 1985-86 as being $500,000, which would be closer to a normal year. Because of the impact of Ottawa and Orangeville, the finishing off of the inside of those buildings, furniture and that sort of thing, it went up to the extent of $3.5 million. This next year it will not have that large amount in it, of course.

Hon. Mr. Scott: Let me just finish off on the construction.

In the past year or two we have done rather better than was done under the last Tory years and have gone up to $24 million. Government Services has given us up to $24 million for capital construction. One of the difficulties is that there are some projects, like the Ottawa courthouse, that you will never be able to complete within this kind of allocation. That would be about $65 million right there, admittedly over a couple of years.

There are some projects that have to be regarded as special projects by the Treasurer, outside of the normal Ministry of Government Services allocation, or we could never build them. For example, we are never going to be able to build the new courthouse that we need in the city of Toronto if we have to build it out of our normal Government Services allocation for construction of, say, $25 million. It will have to be treated as a special project, just as the Ottawa courthouse, essentially, was treated as a special project.

Ms. Gigantes: When you talk about Thunder Bay and its request, as I understand from what you were saying, for two extra robing rooms–

Hon. Mr. Scott: Thunder Bay really made three requests, as I understand it. The first was for two extra robing rooms, the second was to alter the configuration of the court on the basement floor, by turning it around so it would be a more secure room, and the third was to build an additional courtroom.

We are prepared and have been prepared to alter the configuration of the ground-floor courtroom. I think that will be done this summer. We are not prepared at present, until our study is complete, to authorize either the building of the additional courtroom or the building of the robing room.

The point I make is that, in Thunder Bay, it was regarded as a matter of some comment that the court, in periods of very high activity, had to sit in a hotel room. That is regarded by the editorial writers in Thunder Bay as extraordinary. The fact is that it is quite common. This year–and this has been the rule in Ontario for a decade–there will be 15 districts in which there will be sittings of the court held outside traditional courtrooms, in hotel rooms, municipal chambers or a wide variety of rented space taken up to deal with a special, peak-load problem. The sense in Thunder Bay that this was happening only in Thunder Bay was natural, but not accurate.

Ms. Gigantes: What we are to learn from all this is that we have to wait for the report. When will that be?

Hon. Mr. Scott: We learned two things from this. First, the system has to adjust to the recognition that a courtroom is a courtroom, that all these facilities are equally shared by every division of the court. There is no hierarchical entitlement to one room, one facility or another. It is hard to over-emphasize the importance of this, except by example.

Second, we now have virtually completed our initial survey of courtroom requirements in some 20 districts, which would be the districts of major pressure. They have started to go out to consumers and users in those districts. We are asking them to provide input. When we have the input, we will make the determination about where the priorities lie and look to the community to discuss those priorities with us. It is a completely novel way of doing it.

Ms. Gigantes: Do we have a time line for when you would have your program settled?

Hon. Mr. Scott: My time lines have never impressed you, anyway.

Ms. Gigantes: I would still like to hear about them.

Hon. Mr. Scott: Soon.

Mr. Partington: Could I ask some questions about the assessment review board? On page 96 at the bottom, under "Operating Statistics," the

two columns are both headed "1985-86." Is that the way it should be? In the first line under "1985-86," there are 152,844 complaints. Then, to the right, again under the same heading, it is 190,198. What is the purpose of the two columns if they are both 1985-86?

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Hon. Mr. Scott: The right-hand column should be 1986-87. Thank you for pointing that out.

Mr. Partington: Is the right column just an estimate of complaints, or is that to March 31, 1987?

Hon. Mr. Scott: We will have to find that out for you. The chairman of the board is not here, but we will try to find out for you.

Mr. Partington: The reason I asked that question is that a 40,000 increase in complaints in one year seems to be a lot. I am wondering if that has anything to do with the introduction of market value assessment across the province.

Hon. Mr. Scott: It probably does. Let us see if we can find that out for you. The chairman of the board is not here. I apologize for that. We will see if we can find out the answer to that question and let you have it tomorrow. Is that all right?

Mr. Partington: Sure. There was one other question I had with respect to the operation. Maybe you can let me have that question.

Hon. Mr. Scott: Yes, by all means.

Mr. Partington: I guess roughly half the province now has market value assessment. With respect to those areas that do not have market value assessment, do assessment review boards take into account differences in property values in determining whether the assessment is fair or whether it should be increased or decreased?

Hon. Mr. Scott: You will be more up to date on this than I am, but my recollection is that they always did. In an assessment appeal, on a pre-market value assessment, it was appropriate within the constraints imposed by what used to be called the manual to compare your assessment to comparable properties in the municipality, either higher or lower, depending on the point it was desired to make.

Mr. Partington: That is right, except the comparables were more based on building size, lot size, materials used, as opposed to a general value, based on sales.

Hon. Mr. Scott: Yes.

Mr. Partington: Now that the market value concept is being introduced in those areas that do not have it, are members of the board at least taking into account general opinions as opposed to statistical data, like square footage, number of fireplaces, things like that?

Hon. Mr. Scott: I suspect the answer may be yes, but let me find out for certain and let you know tomorrow, if that would be all right.

Mr. Partington: That is fine.

Mr. Chairman: Is there anything further on Mr. Partington's point? Ms. Gigantes, we will move to you. If any member of the government party wants to get into the flow on this, you are more than welcome to so do. I am not intentionally passing you by. You are being most considerate in allowing the critics to dominate the questions, but if you have any, just advise the chairman of your wishes and he will, as usual, attempt to accommodate you in the best manner possible.

Ms. Gigantes: I would like to spend a bit of time discussing the native court worker program. The most recent briefing material I have received on the program—and I appreciate very much the flow of material that comes to me from that program, which is very helpful to an understanding of what is going on—indicated to me that the employment of 26 court workers was relatively new. Am I confusing it with the justice of the peace program?

Hon. Mr. Scott: I think the answer to that is no. The native court worker program has been funded for some years and, while the dimension of the program across Ontario tends to vary, there has always been a significant program like that. There is nothing new about this. The numbers have been virtually constant.

Ms. Gigantes: What does the justice of the peace program come under?

Hon. Mr. Scott: The justice of the peace program is an entirely different program. It is item 5. Do you want to talk about that?

Ms. Gigantes: Yes, I would like you to recap.

Hon. Mr. Scott: Let me tell you that this is a program that is administratively full of difficulties and shoals but, in my opinion, is very worth while. What it is designed to do, as you know, is to train native people to perform sitting justice of the peace functions in communities, not always purely native communities but first of all in communities where there is a significant native population either because they are reserve communities or because they are in towns such as Thunder Bay, Sault Ste. Marie or Kenora, where there is a large native population.

The program really requires very intensive activity, first of all in searching out people who

might be interested in participating in it, and second, in training them. The reality is that a significant number of people may enter the training program, but by the end of the program we are very reduced in possible candidates. I do not regard that as a negative feature, I regard that in a way as a positive feature. These people who apply to enter the program are all community people of some local distinction. It is a tribute to them that they enter the program. It is a great advantage to us that they enter the program. The fact that halfway through the program or three quarters of the way through they decide that, after all, they do not want to be a justice of the peace is too bad from our point of view, but we have none the less created among community people a sense of what the justice system is all about, and their training is not wasted. It is a positive thing.

We had 15 people enter the last training program that was at Sudbury. Only two or three survived the course. I do not regard those other 12 as failures. They have all gone back to their communities knowing more than they did about how the system can be made to operate. They will in a way be a resource in the community with that in mind.

The graduates of the program become justices of the peace. They perform the normal duties of justices of the peace in any community. They need support, as new JPs always do when sitting, and we hope to give it to them. I have seen them operate. It really is a great thing to be able to run a court on a reserve where the court judge speaks the language of the people, especially when people do not speak any other language.

We are developing an accelerating program to create 12 JPs this year who will perform a slightly different role. They will not be full-time JPs; they will be JPs in communities who will be able to run a court usually for the purpose of adjournments and will be able to sign process. They will be trained in the same way, but we hope thereby to have a JP in most of the significant fly-in communities in northwestern Ontario.

Ms. Gigantes: Can you indicate to us how much budget will be devoted to that in the coming year?

Hon. Mr. Scott: Maybe the general manager can.

Mr. Peebles: Not offhand.

Hon. Mr. Scott: To the 12, to part-time JPs?

Ms. Gigantes: The three and the 12. That is under item 5.

Hon. Mr. Scott: This does not answer your question about the money, but in the next fiscal year we hope to be able to train a full-time JP for the northeastern circuit.

Ms. Gigantes: That would make four in total.

Hon. Mr. Scott: Yes. We will try to find out the cost for you.

Ms. Gigantes: Looking over the background documentation, it seemed to me–and I do not know much about JPs and how they normally operate–that the creation of the post of part-time JP makes a lot of sense. On the other hand, the amount of moneys that were being devoted to it on a weekly basis–

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Hon. Mr. Scott: The reality is that it will not require very much time. The problem at the moment is that you have a court that goes to, say, Trout Lake four times a year. When the court is not in Trout Lake, 361 days a year, there is no one in Trout Lake who is able to sign a process for a search warrant; there is no one who is able to perform that work in support of the investigative function of the police, which justices of the peace do in our urban communities.

That has created a lot of problems, so we would like to have justices of the peace in these communities. Also, if you are going to these outlying communities only four or six times year, if you have a weather problem and you cancel, if the cases cannot be adjourned properly, you lose jurisdiction to try the cases. That happens in the winter–and in the spring, autumn and summer–with fair frequency. If the judge cannot get there, we and the community want to be able to have a justice of the peace who can convene a court and adjourn the cases, if nothing else, preserving jurisdiction.

There is one other thing that is absolutely critical. I have a sense that before any significant changes are made in the delivery of justice to the fly-in courts in the northwest and northeast–and I hope to be around to try to do something about that–we have to begin to come to grips with the conflicts between the native peoples' expectation of the system on the reserve and our expectations of the system. Our expectations are not shared; they are quite different.

I remember, when I was up there, you would sit around the evening before court talking with the band council. You would get a sense of what the band council thought the court was going to be doing the next day. As a lawyer, I would say: "These people are not talking about the institution I am talking about. We are talking about two

separate institutions with two separate series of expectations."

Ms. Gigantes: Could you describe what you mean by that?

Hon. Mr. Scott: Sure. I met with one band council, and we went on to talk about some of the cases. They wanted to know whether order in the community was their responsibility as band council or mine as Attorney General. I did not know. "Where are we going with this question?" I thought nervously. "What do you mean?" I asked. "Well, this man flew in to our band, moved into our community, created a lot of trouble with the women and with liquor and was arrested, charged and convicted. Why did the court not send him out, kick him out of our area?"

Is that the court's function or not? Their expectation of the court as a law-and-order system was that it would do the perfectly reasonable, practical thing designed to restore order in the community: get rid of X, who did not belong there anyway.

Ms. Gigantes: That is not so very different from the views of a lot of people in large urban communities.

Hon. Mr. Scott: It is not so very different, but the lawyer in me had to explain that there are certain things courts cannot do. The band council began to get the sense that the certain things the court could not do were the only important things it wanted the court to do in the first place. Why was it not doing this?

The other difficulty they have, in a whole series of perceptions about what the court does, is in understanding why the court comes in and takes all their money away. The court arrives, the fines are issued, the money is all hauled up on the desk and then everybody leaves with the money. That is one thing they have some difficulty understanding.

The other difficulty they have understanding is evinced by a recent case. I think it is at Big Trout Lake that the band council, pursuant to the Indian Act, passes a bylaw that says there will be no liquor on the reserve. They go to the Ontario Provincial Police and say: "Look, the only way to get liquor on this reserve is if you fly it in and land at that Ministry of Transport airport, which is off the reserve. Will you search people getting off the plane so they do not bring in liquor?" "No, the OPP cannot do that–the Charter of Rights and all that." So the band council appoints band councillors to search people getting off the planes. The band councillors are arrested by the OPP. That is going on here.

Their expectations of what the system does and should do are radically different from ours, and we have to come to grips with that. One of the important, though maybe not major, side benefits of having justices of the peace with some training and some experience living in the communities will be to have a presence that has some understanding of what the justice system is designed to be all about, to try to answer some of these questions.

Ms. Gigantes: When we look at the figures from the Ministry of Correctional Services about the the number of people who are incarcerated, admitted to jail, and the number of native and Metis people in that population, do we have an understanding of where that is happening? Is it happening in the northeast of Ontario or in urban Toronto and Ottawa?

Hon. Mr. Scott: I do not know that we could give you an answer that could be verified in any way that would be other than impressionistic. I think the reality you face is that the native people of Ontario tend to be poor, they tend to be uneducated, they tend to have limited access to social services and other support systems, they have their share of human failings. In every civilization, those people turn up more frequently in that kind of statistic than people who are well educated and employed and who know how to use the support systems of the community.

Ms. Gigantes: I am trying to get at some sense of whether the justice system, the police system, the court system as part of the justice system, the native court worker program and the native justices of the peace program are essentially going to be enough to change the pattern we see. While everything you have said is correct, I think there is an additional problem that in some ways you described when you described the expectations of the justice system that native people have.

Hon. Mr. Scott: I do not think the court system can change or alter the problem any more than the court system can alter the social problem of wife battering. It can respond to it; it can criminalize a certain activity rather than decriminalize it.

That having been said, those social problems exist, and the court is a mechanism for maintaining some control over them. But the court is not a competent mechanism to root out and remedy that social evil. It was never designed to do that; it has no capacity to do it. We must look elsewhere for the solution to those problems. That is not to say we cannot develop a justice system that is much more responsive to native

needs. I think we can, but in so far as native contact with the justice system is a function of poverty, lack of education or alcohol, the courts cannot solve those problems.

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Ms. Gigantes: I have the sense, though–and I think that you probably do too–of having a justice system that more closely resembled what native communities expected of a justice system both in terms of its familiarity with native communities, especially isolated native communities, and in terms of its view of what is there in judgements.

Hon. Mr. Scott: Well, any native justice system would not solve those problems either. The native justice system would throw those people out of the community.

Ms. Gigantes: Well, you have described one kind of case.

Hon. Mr. Scott: I think that is the instinct of the band council. For example, in some communities the band council used to make recommendations to the judge as to sentencing. I think the experience was that the band council was much tougher than any judge was going to be. What they look to is to solve their social problem, and solving their social problem quite often means getting rid of a trouble-maker. That is what they want the system to do in very large measure.

It is understandable, if you see where they are. They are in a completely remote community where there is no work. To quote the learned Leader of the Opposition (Mr. Grossman), "You cannot run and hide." There you are. You are up in a northern community, and that is where you live. When they have a person in the community who acts out, whether it be in matrimonial difficulty or alcohol, they have to confine him. They have to put him aside from the community. It is the traditional necessity.

That is not to say that they are not conscious of some desire to rehabilitate people; of course they are, but that cannot be done in Trout Lake. Maybe that could be done in Kenora, Thunder Bay or Toronto, but that cannot be done in Trout Lake. In Trout Lake, you just have to stop what is happening in your community.

I think we can develop a justice system that is much more responsive to their needs. There are some experiences about that with the native people in the southwest of the United States that are quite interesting. Some time we can discuss some ideas we have, but I think in a sense it is all premature, and we have to be very careful to understand that these social problems cannot be solved. They are not created by the justice system, and they cannot be solved by the justice system.

Ms. Gigantes: That is true right across Ontario in all communities. The thing that strikes me about a community which is particularly a native community and an isolated community, is that it makes ever so much more sense to talk about trying out community sentences in an area like that than it does, for example, in Metro Toronto where the sense of community is not nearly so intense, and yet when we talk about the native court worker program or the native justice of the peace program, we are talking in terms of providing a way for native people to communicate with the system but not for native people to participate in the system in terms that they feel would make sense.

Hon. Mr. Scott: The same thing was true in the Northwest Territories as is true in the northwest of Ontario. Our natural expectations of what native people want or expect are not always borne out. One of the things we found, I think, in northwestern Ontario is that the practice whereby the band council used to make a recommendation as to sentence has now fallen into disuse to a certain extent. In some places they want to do that, and in other places they do not want to do that.

There are some other things we have found. For example, the native constable program, which the Ministry of the Solicitor General runs and which is a wonderful program really to introduce natives to policing and to allow them to police themselves, is a preliminary act of self-government.

We find that what has happened in some bands is that the native constable has to live off the reserve. If he is going to be a native constable, which is our objective, he cannot live on the reserve; it simply is not possible for him. He will be abused.

Therefore, each situation is very different. It is almost impossible to develop general rules.

Ms. Gigantes: I am sure that is true. When you say the participation of a community in sentencing has dropped by the wayside–

Hon. Mr. Scott: In some cases.

Ms. Gigantes: It is still current in others?

Hon. Mr. Scott: I think there are some communities where that is done.

Mr. Ewart: Christian Island.

Hon. Mr. Scott: Christian Island, Mr. Ewart tells me, is an example of where this still goes on.

I am not entirely clear, from my own experience, whether the falling away of that practice was a function of the fact that the courts did not select the kinds of sentences the band tended to recommend–if the band wanted X put out of the community, the courts said, "We cannot do that"–or whether it was, on the other hand, as a more negative person would say, a simple result of the fact that the band did not feel it could bear the responsibility of continuing to live in a community with a man for whom they had asked an increased sentence. I was never clear which of those two possible motives played a part in that.

Ms. Gigantes: In fact, neither of them may be relevant if one wants to talk about trying to find a way, today, to develop a new way for native communities to become involved.

Hon. Mr. Scott: If I had my way, which I seem unlikely to get, life being what it is, I think a very useful experiment would be to appoint a provincial judge and ask him to take total responsibility for the northwest fly-in courts; that is, to preside in all those courts instead of rotating the judges as we do now, and to do that for a time frame of, say, two years. I do not think it would be humanly possible to do it for more than two years; the burnout rate would be so high. It is gruelling work.

Give him the resources he needs to do that, or she needs to do it, and get a crown attorney who would make the same commitment. You would even then run the risk that there was this liaison between the crown attorney and the provincial judge; that would not bother me for the moment.

Put the two of them there and say: "All right now, you are going to run these courts for two years. You are going to hear all the cases in the northwest, and after that we will move you wherever you want, but at the end of two years, what I want from you two guys is a report about how to do this properly–chapter and verse and detail."

There is no point in getting such a report from someone like Scott who flies in for three days and flies out and comes back with a whole lot of anecdotal evidence, or people of that type. You can only get that kind of advice from someone who has lived there, doing the job day after day after day.

Ms. Gigantes: What is–

Hon. Mr. Scott: What is stopping me?

Ms. Gigantes: Yes.

Hon. Mr. Scott: What is stopping me is getting the right people to do it. If you have any nominees, let me know.

Ms. Gigantes: Have you advertised?

Hon. Mr. Scott: I do not think advertising is going to produce the person we need for this.

Ms. Gigantes: Thank you.

Hon. Mr. Scott: The first difficulty, of course, is that if you were going to do it, you would ideally want someone who spoke at least one of the native dialects. Well, forget that. There are few lawyers who speak any of the native dialects.

Mr. Ferraro: None of them speak English.

Hon. Mr. Scott: Some of the lawyers do not, no; true.

Mr. Chairman: That is true of accountants too.

Hon. Mr. Scott: You really have to get a person of very special quality to do this. I have a little list.

Then, of course, what you have to ask them to do is to go and live for two years at the end of the world, or what they perceive as the end of the world. There will not be any coming down to Toronto to see movies. They will be up there for two years, flying into reserve courts where there are no hotels, where there are no restaurants, where you cook your own food and you live in the back of a house that belongs to the factor or the priest perhaps or the nursing station and where you do work which is not understood or particularly valued. It is hard. There are not too many candidates who have the honour.

1800

Mr. Chairman: We just have a couple of minutes left. I believe one of the minister's colleagues wants to change the subject for a moment. If Ms. Gigantes will give up the floor, I will move to Mr. Cooke for the remaining time, which is not giving you a great deal, but you can certainly carry on when we continue tomorrow.

Mr. D. R. Cooke: Rather than change the subject, perhaps supplementary to what Ms. Gigantes was raising, because it was fascinating, I think it was the estimates of the Ministry of Correctional Services that Ms. Gigantes spoke on when she came out with some figures that were very interesting which suggested that the number of native people who are sentenced is a much higher proportion than–

Ms. Gigantes: Admitted to jail. I spoke of that at the beginning of these estimates, as a matter of fact.

Mr. D. R. Cooke: All right, then that matter has probably been dealt with. My question had to do with court construction. Perhaps I should wait

until tomorrow when I have a chance to see the Hansard of some of the discussion which occurred today when I was not here.

Hon. Mr. Scott: Mr. Chairman, if there are any special topics for tomorrow–I have already undertaken to find out some things for Mr. Partington, but if there is anything you would like to discuss tomorrow and you would like to let me know about, I will make sure that I have either the people here or I can bone up on it.

Mr. Chairman: That takes the fun out of it, does it not?

Hon. Mr. Scott: That is what I said to the honourable member for St. George (Ms. Fish) today. When you give notice of these things, I can come better informed.

Mr. Chairman: When did we begin giving notice of these arrangements?

Hon. Mr. Scott: I am suggesting you do start it, because I know what you have is a search for information.

Mr. Chairman: That is the British system.

Hon. Mr. Scott: You do not want to embarrass anybody by not being able to respond.

Mr. Chairman: Not at all.

Hon. Mr. Scott: You just want information.

Mr. Chairman: But you would certainly be doing away with hundreds of years of parliamentary tradition if you did it that way.

Hon. Mr. Scott: Not at all, Mr. Chairman. If you read Douglas Fisher's column in the Toronto Sun about two weeks ago–I know you read it regularly–

Mr. Chairman: Absolutely.

Hon. Mr. Scott: He commented on the fact that the business of giving notice in the House of Commons was a traditional practice until the Trudeau years, and even in the Pearson years, it was routine that notice was given to ministers of questions they were going to be asked–not very long sometimes, but they were given some notice–because the purpose was to get information.

You would never give notice, of course, if the purpose was to embarrass for their failure to answer the question.

Mr. Chairman: Certainly.

Hon. Mr. Scott: It is to give notice and remove that.

Ms. Gigantes: Mr. Chairman, could I indicate along those lines–

Hon. Mr. Scott: It will not happen.

Ms. Gigantes: –that I would welcome some discussion of what is happening with crown attorneys, the public trustee's office, the office of the public complaints commissioner, as a way of getting at a more general subject, and also, the Criminal Injuries Compensation Board and what is happening there.

Mr. Chairman: All right. Could I get some direction from the committee and also to assist the Attorney General in a small problem the chair is going to have with respect to time. Just before we adjourn, I would like to advise the committee that, according to the calculations of the clerk, we have just over three and a half hours remaining in the estimates of the Ministry of the Attorney General. Therefore, the problem is that tomorrow we will complete another two and a half hours and we will have approximately one hour left following tomorrow's session.

If we carry on with some degree of speed and effectiveness tomorrow, would it be possible and would we get agreement from the committee to cancel the last hour or, alternatively, is it your wish that we come back at some other time to fit the last hour in? I am only suggesting this in recognition that the House will obviously be completing its business some time this week according to the schedule we have been advised of, and it will be difficult, with other committees sitting, to get that last hour in. What is your wish with respect to this?

Ms. Gigantes: I am quite satisfied to leave it at tomorrow to finish.

Mr. Partington: I suggest that we discuss it tomorrow, Mr. Chairman.

Mr. Chairman: We can; I just want you to keep in mind that if we can get all the subjects you are concerned about on the table tomorrow, we can, in fact, cancel the last hour, if that meets with your agreement. If I do not get total unanimity on the committee, we will not do it. It will not be put to a vote. It will have to be totally unanimous. If any one member indicates he wants to carry on, then we are without any other alternative.

Hon. Mr. Scott: Is this a good time to announce my annual dinner for the committee? Mr. Chairman, if you will be good enough to pick a date, I will be glad to arrange it, just before the announcement about the extra hour of estimates is canvassed.

Mr. Chairman: If I am unable to make it, may I take the cash instead?

Hon. Mr. Scott: No, it is the one thing you cannot take.

Mr. Chairman: All right. The committee is adjourned.

The committee adjourned at 6:05 p.m.

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Ontario

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Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney-General

Second Session, 33rd Parliament

Tuesday, February 10, 1987

Speaker: Honourable H. A. Edighoffer

Clerk of the House: C. L. DesRosiers

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, February 10, 1987

The committee met at 3:34 p.m. in room 228.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1101, law officer of the crown program:

Mr. Chairman: Members of the committee, we are going to resume consideration of the estimates of the Attorney General, vote 1101. There were some questions raised by Mr. Partington, the acting critic for the Conservative Party at our last meeting. Mr. Partington has advised that he will not be able to attend, but I have asked the Attorney General (Mr. Scott) to respond to some of those questions, and I advise the committee that Mr. Sterling, a fine member, is going to be sitting in for Mr. Partington today and will be the acting, acting critic.

Mr. Sterling: Acting, acting?

Mr. Chairman: That is right. Well, it is the third one down the line, whatever that might happen to be.

As you know, we have approximately two and a half hours today and then we will still have one hour left over. If we have completed the business, I think it was the consensus of the committee that we would end today even though we had an hour left to go. If we do not complete the business today, obviously we will have to carry on for one more hour. Mr. Attorney General, with no further comments, I believe you have the floor, sir.

Hon. Mr. Scott: Thank you, Mr. Chairman. Yesterday, Mr. Partington asked some questions about the Assessment Review Board's data, which is on page 96 of the estimates. Both columns, you will recall, are headed 1985-86. We have inquired, and the second column on the right should be headed 1984-85. That will show, in fact, that the complaints received have dropped from 190,000 to 152,000.

The reason for that drop, as far as we can discover, is not a general disinterest on the part of the communities in appealing their assessments, but appears to be more likely the fact that two major municipalities, Mississauga and Sudbury, did not close their rolls at the usual time and, therefore, the appeals they generate will be included in the succeeding year's figures. They would normally generate about 25,000 appeals, more or less, which would still leave the volume down a modest amount in that year.

The next question is: when market value assessment is not in force, does the board use market value assessment in addition to standard assessment practices of square footage, number of fireplaces, bathrooms and so on in its comparison in arriving at assessment?

The chairman of the board has asked me to inform you that the methodology that is used in determining whether a real property is properly assessed depends upon the methodology selected by the assessor, on the one hand, and each complainant, on the other. The board member listens to the evidence of the assessor and each complainant. If the board member agrees with the assessor's methodology, then he finds for the assessor. If he agrees with the complainant's methodology, he then finds for the complainant.

He wants me to emphasize to the committee, however, that it is important to stress that, on these appeals, a property that is under appeal is compared with similar properties in the vicinity—and I think I made this point yesterday—whether or not the property is subject to market value assessment.

Those, I think, are the answers that were required yesterday, Mr. Chairman.

Mr. Chairman: Any supplementary questions?

1540

Mr. Charlton: Following up the last set of comments, for a number of years there have been a number of problems with review boards; specifically, with some of the chairmen. Some of the chairmen have a high degree of expertise in terms of both manual assessment and market value assessment because of other credentials they happen to have, but a number of the chairmen essentially do not have any expertise at all. I think that bears directly on what you said; if they agree with the assessor or if they agree with the appellant, that is how they will decide.

Hon. Mr. Scott: What the chairman has said about the process is not wrong. What you are looking at in an assessment appeal is a search for a methodology. Once you have the methodology

right, the assessment is going to be either accepted or rejected. The methodology is, of course, the very process of comparison that either the assessor or the complainant's people make.

Your comment with respect to the hearing officers or the chairman is an entirely appropriate one. The reality is that over a decade or so, literally dozens of people were appointed to the Assessment Review Board. There are probably several hundred people on the lists of the board. The chairman has the discretion as to whom he or she calls in from that panel to hear assessment appeals.

We have appointed a new chairman to the Assessment Review Board and he, frankly, has culled the panel to about 48 active vice-chairmen. He has done that with an eye to professionalism and expertise. While the balance have not been dis-appointed, they are not being called to sit on cases.

Mr. Charlton: There are a few suggestions I would like to throw out.

Hon. Mr. Scott: I would be delighted to have them.

Mr. Charlton: I can honestly agree that I have seen some improvement over the last couple of years in a number of hearings that I have participated in, but the problem has been big and it has been there for a long time. I will throw out some examples and a couple of suggestions so you can understand the kind of problem.

For example, in the case of a municipality which has never gone to market value, which is still on an old manualized assessment–

Hon. Mr. Scott: Happily, ours.

Mr. Charlton: –the definition of "vicinity" can become very precise. It is an entire area that has been assessed using the manual with a certain set of factors. As soon as you go across a line and use another set of factors, you are in a different vicinity.

Hon. Mr. Scott: Yes.

Mr. Charlton: In market value, though, the marketplace is what defines the vicinity in some municipalities such as Toronto. Metropolitan Toronto is an even bigger example. Even in Hamilton, for example, there are probably 10 market areas or vicinities, if you like.

Hon. Mr. Scott: I understand the problem you are referring to. The irony is that when I began to practise law and did assessment appeals, there was at that time something very like market-value assessment; there was no manual. You took your house and compared it to other houses that were assessed, and you got a real estate agent to come in and give the assessment of it. There was a proportion. The rateable assessment was, say, 20 per cent of actual market. When you found the house was worth $100,000, you had an assessment of $20,000 or whatever. There was really in those days a percentage market-value assessment system.

What happened was that became very difficult for assessors on the staff of municipalities to apply on the ground, going from door to door making assessments. As a result, a manual was developed, and that has created the problem you describe.

Mr. Charlton: That is right, but we are getting back into the other problem now; that is, back into percentage of market value.

Hon. Mr. Scott: Once we have market value in place, are we simply going to develop another manual the way we did last time? The assessor going from door to door to make the assessment of your property and your neighbours' properties is not going to be able to call in an appraiser on every single house. He is going to begin to use–what shall we call them?–rules of thumb or guidelines.

Mr. Charlton: Mass appraisal process.

Hon. Mr. Scott: Yes. Then you are very close to having another manual again. We hope it will be a better manual.

Mr. Charlton: In part, what I was trying to get at is that one of the things that could benefit the hearing officers would be, first, if once a year we sat down for a week in January with the officials from the head office of the assessment branch of the Ministry of Revenue and went over policy and any changes in policy that had occurred in the last year. Then, if they spent a day when they went into each municipality or region to do appeal hearings in those regions, if they sat down and went through a day of briefing with the assessors–because what it boils down to is you are talking about the assessor establishing that he used a method and the hearing officer deciding it is the right method. But if he does not understand essentially how they have applied the method in that community, there is no real basis to decide whether it is right or not–

Hon. Mr. Scott: I think Mr. Prattas, the new chairman, is very anxious, and reasonably successful in reviving the standards of the board. I think on balance he is doing a very good job and I would like to bring your suggestions to his attention. I suspect one of the things he will tell me is it is a great idea in terms of giving the board

an understanding of what is going on, but the folks out there in Orillia who are appealing their assessments to his board are going to be a little upset when they hear he spent the whole first day in town talking to the municipality, in private, about how they had done it, before he comes to hear their case. They are going to say: "What is going on? The assessment board comes to town and spends the first day closeted with the very bad guys who have assessed the property."

Mr. Charlton: What the hearing officer does in this kind of situation–this will be my last comment–is simply take as an example a hearing which I took a few years ago. Having been a property assessor prior to my election, I was fully familiar with the methodology–

Hon. Mr. Scott: We should get you back to practise, you would love this.

Mr. Charlton: I still practise quite frequently, for free, on the other side now.

We put the hearing officer in the position where we both made the same argument, coming to different conclusions. The chairman said: "You both used the same method. I do not know who is right and who is wrong. But my colleague last year decided we would give you a split factor on this property, so I will make the same decision. Your argument, in terms of which one of you is right and which is wrong on value, can go on to the Ontario Municipal Board." This is not what we need in an administrative tribunal.

Hon. Mr. Scott: I cannot comment on that case except to say any case you lose certainly causes me a lot of concern.

Mr. Charlton: I do not lose any. I do not take the ones I am going to lose. I just tell them they have no appeal and cannot win.

Hon. Mr. Scott: I see. You only take the winners.

Mr. Charlton: That is right.

Hon. Mr. Scott: You do not even give the others a chance, by telling them they are not going to win?

Mr. Charlton: If they want to waste their time and take an appeal they cannot win they can do that.

Hon. Mr. Scott: I see.

Mr. Charlton: There are things where I think people have a legitimate complaint, but under the legislation they do not have an appeal.

Hon. Mr. Scott: I am glad you are not a doctor, because you would not be giving any second opinions.

Mr. Charlton: They have the opportunity to seek any second opinions they wish.

Hon. Mr. Scott: Let me bring those matters to Mr. Prattas's attention. I think he will be delighted to talk to you. Why do you not give him a phone call? He is very approachable.

Mr. Charlton: Sure.

Hon. Mr. Scott: I think he is going to be a great asset to the board. He is very anxious to make it work effectively. He is very conscious, I think, of the kind of dissatisfaction you refer to, which I know from practice has been endemic around the board. He has made some good changes. Give him a call. You would do more good talking to him than talking to me.

1550

Mr. Sterling: I would like to begin by congratulating the Attorney General, and these might be the last kind remarks that I address to you.

Hon. Mr. Scott: I am so shocked at any, Mr. Sterling, I am grateful.

Mr. Sterling: I want to congratulate you on taking the pledge on January 1, in terms of your support for my Bill 71, the Non-Smokers' Protection Act. I would have hoped that the remaining members of the committee would have followed your example, but I know you are sitting beside a colleague of mine who has not yet seen the light.

Mr. Chairman: It has affected his personality, and I have mentioned that to him. I am not going to say in which way, but there has been a certain change. Perhaps the Attorney General wanted to respond to that.

Hon. Mr. Scott: No. I am delighted not to be smoking cigarettes any more. I am seriously considering declaring the ministry a smoke-free area. The deputy minister thinks it is perhaps a little early to make such an important decision, and certainly my experience in quitting indicates that indeed it is a little early.

Mr. Chairman: Anyway, I wanted to congratulate you.

Hon. Mr. Scott: Now that I have curbed one of my vices, Mr. Sterling, how are you doing?

Mr. Sterling: When one is born and lives a good, sin-free existence, then one does not have to worry about that.

Mr. Poirier: Except for humility.

Mr. Sterling: I would like to ask the Attorney General some questions in relation to the Criminal Injuries Compensation Board. We were very pleased–and the critic for our party, Mr.

O'Connor, who cannot be with us because he is ill at present, added his comments–when you made an announcement on November 5, 1986, that you were increasing various categories of payments to victims. For instance, the maximum lump sum award for any victim increased from $15,000 to $25,000. The maximum award for all victims in respect of any one occurrence is increased from a total of $100,000 to $150,000. The lump sum payment has increased from a total of $175,000 to $250,000; that is, for periodic payments.

Hon. Mr. Scott: You would agree that it is about time, would you not?

Mr. Sterling: Yes.

Hon. Mr. Scott: The previous government had not made any changes since 1972.

Mr. Sterling: It is all well and good to make an announcement–and as I indicated, our critic agreed that it was time that these amounts be increased–

Hon. Mr. Scott: You often took a view different than the previous government; I just wondered if you did on this subject.

Mr. Sterling: Sometimes, there are statements that I can make and I cannot make.

At any rate, I see from your 1985-86 actual payments, built on the old system, that the Criminal Injuries Compensation Board's expenditures, which would include previous awards where there were periodic payments–

Hon. Mr. Scott: What page are you looking at?

Mr. Sterling: I am looking at page 99 of your notes on estimates.

Hon. Mr. Scott: Are you looking at transfer payments?

Mr. Sterling: Yes.

Hon. Mr. Scott: Thank you. I am with you now.

Mr. Sterling: The actuals show $3,859,000. That is the actual amount. The estimates for 1986-87 are $4,090,400. What are your estimates for 1987-88? They are really more relevant than any of these two figures.

Hon. Mr. Scott: Well, they have not been decided yet, or they would be in the book. That kind of information comes very largely from the board itself. What the Legislature has done is it has fixed the maximum awards that can be made under the statute and virtually doubled them since 1972; but it is for the board, essentially, to estimate, in so far as one can, the total payout that it expects to make in any given fiscal year. Everyone understands, to a certain extent, that has to be a guesstimate, because the board has no control over the number or kind of cases that come in, so I cannot give you that information.

Mr. Sterling: I understand that even under the old system approximately $4.1 million was not adequate, in that the Criminal Injuries Compensation Board now has to back up something like 85 or 100 cases just because it does not have the money to give out. Is that correct?

Hon. Mr. Scott: No. I do not think that is true. The limit on the amount the board can award in particular cases is fixed by the statute. We have increased that by almost doubling it. The board itself will decide how much is to be given out in each case. The board is an independent board in that sense, and as long as it does not make awards beyond the level permitted by the statute and as long as they are not reversed by a court, the board is supreme in deciding how much money is paid out. We simply provide the cheque.

The estimate of how much will be paid out in any given year is no more certain than the prediction of how much the Workers' Compensation Board will give out in the next year.

Mr. Sterling: There is no limit on it in terms of the total expenditure.

Hon. Mr. Scott: There is no limit on it in the sense that if twice as many cases come to the board next year and it hears twice as many cases and the cases are twice as big, there is no reason twice as much money should not be paid out.

It is just like legal aid. You can make a guess about how much is going to be required, but it is very much a function of how many crimes are committed, how many applications are received, what kinds of cases they are, the severity of the injuries, the standard of proof the board applies in construing the statute and the heads of damage that, subject to the statute, the board takes into account in making awards.

Mr. Sterling: That is fine and dandy to say as long as there is adequate staff to deal with applicants and an adequate number of hearings to deal with cases that come forward.

Hon. Mr. Scott: If you want to talk, as perhaps you do, about whether the board has adequate staff to process all the cases it receives in any given year, clearly, the answer to that is no. The board has fallen behind, and the government is perfectly aware of that. It now takes a significant period between the filing of an application with the board and the payout by the board after the determination of the case.

That is a result of a number of things. For example, it is a result of the fact that the number of cases coming to the board, even before this increase in levels, increased 35 per cent. That is not a function of the crime rate, because the crime rate has not increased by anything like that, if at all. It is a function of the fact that the board's work, its mandate, its obligation under the statute is becoming better known. Police officers and others in the justice system quite routinely bring to the attention of victims that there is the right to complain to the Criminal Injuries Compensation Board. The result is that over the past four years, the volume has increased by 35 per cent.

On top of that, you have whatever increase in volume will be presented by the fact that the awards are going to be more substantial. I do not think we can predict what that is. You may get exactly the same number of cases, but the publicity associated with the increase of awards and various television programs and so on will no doubt increase the number of cases coming to the board.

It is true that there remains a backlog. The government is addressing that. These are not raw personnel numbers, but if, for example, you look at the funds that have been provided to staff the board for the year ending March 31, 1985, total salaries, which are a reflection of staff numbers, were $455,000. In the next fiscal year, the first year of our government, we increased that allocation by 35 per cent.

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Mr. Sterling: To what figure?

Hon. Mr. Scott: To $617,000. In the current fiscal year ending March 31, 1987, the second year of our government, we increased the allocation by 17 per cent, bringing the total salaries to $723,000. What you have seen in the two years of our government is an increase of salary allocation to the board from $455,000 to $723,000. This is very close to doubling the allocation.

Ms. Gigantes: Can I interrupt just to make sure that we are looking at the same figures? I am looking at page 99.

Hon. Mr. Scott: I do not know that those figures are in this book.

Ms. Gigantes: They are the figures we have been given, and according to them, the actual 1985-86 figure was, as you reported, $617,000. The 1986-87 estimates which we are called upon to approve indicate a level of salaries and wages of $645,000, which I would not call a 17 per cent increase.

Hon. Mr. Scott: No, we have $758,000.

Ms. Gigantes: But $758,000 is still not 17 per cent.

Hon. Mr. Scott: The difficulty with that is that the figures you have would not include salaries from January 1.

Mr. Sterling: Are you giving us an actual projection?

Hon. Mr. Scott: No. It does not include any in-year increases. The figure I gave you is in-year increases. The figures you have are the figures that existed within 10 days of the budget.

Ms. Gigantes: Instead of talking about the salary slippage in fiscal years and all that jazz, why do we not talk about how many new people we are looking at?

Mr. Sterling: How many people are there?

Hon. Mr. Scott: One of the problems is that the board has full-time people and part-time people. It has a certain amount of discretion as to how it utilizes the salary allocation it gets.

Mr. Sterling: The figure for salaries and wages would not include the contract people, would it?

Hon. Mr. Scott: Yes, it would. The full-time people went from 16 to 19, but if you translate the part-time people who were hired as add-ons and turn them into full-time by working out their hours, you go from 16 to 27.

Ms. Gigantes: Are we talking about board members or are we talking about support staff?

Hon. Mr. Scott: I understand that you are talking about staff of the board. One of the things that happens is that the chairman has to decide how the pay envelope is going to be used. If the chairman decides that some of the pay is going to be put into reclassifying people up rather than into new hirings, that is a decision, within limits, that the chairman makes.

The point I make here is that the volume of work that the board has is very considerable. It has increased by leaps and bounds–35 per cent over the past four years and I hope, because we want it to, it is going to increase markedly in the future. The salary allocations this government has made have also increased very significantly. There is not a perfect match. I would not pretend that. There is rarely a perfect match going from tribunal to tribunal but there has been a serious commitment, as those figures show.

Ms. Gigantes: If I look at the figures again, and I will just leave this as soon as I have straightened it out–

Hon. Mr. Scott: You are sort of taking the wind out of Mr. Sterling's sails. He raised this.

Ms. Gigantes: In 1985-86 we had a total activity account of $4,932,800. When we subtract the transfer payments from that, you come up with just over $1 million; $1,073,000 to run the office and that board.

Hon. Mr. Scott: I am not following this.

Ms. Gigantes: Okay. I am looking at the 1985-86 actuals on page 99 of our briefing book. If I look at the 1986-87 estimates we are supposed to vote, we have a total activity account of $5,109,600. If you subtract the predicted transfer payments, $4,090,400, from that, you get an even lower figure for the operation of the board and its office.

Hon. Mr. Scott: Mr. Peebles can deal with that.

Mr. Peebles: You are comparing actual numbers with our estimates, which were made a year ago. In the year, there have been additional resources transferred from within other parts of the ministry to this program, and those numbers do not show up on this list.

Mr. Sterling: Will you provide us with those numbers right now?

Mr. Peebles: I am not sure I can provide them right now.

Mr. Sterling: Can I ask a question about the 16 to 27 people? I find it difficult, when we are dealing with estimates at this time of the year, not to deal with actuals or estimated actuals for the year 1986-87. It is also difficult not to deal with what kind of projections you are dealing with for 1987-88. If you are talking about the 16 to 27 people, the increase in staff, how many of those are administrative staff and how many are adjudicating cases? Any of them?

Hon. Mr. Scott: Mr. Peebles and the deputy minister make the point that of the staff we are talking about, none is a board member. The board members are order-in-council appointments and are not accounted for in these figures. The move from 16 to 19 is a move of full-time people. The board employs a significant number of part-time people. If you transplant those part-time people into man or woman working years, you move from 16 to 27 full-time.

Mr. Sterling: They are not doing anything other than working for the Criminal Injuries Compensation Board?

Hon. Mr. Scott: I am making the point that many of them are part-time; they are on contract.

Ms. Gigantes: If it may be helpful in the view of my Conservative colleague, I suggest we have the chairman of the board come and speak to us about the operation of the board. I think we have all heard her speak publicly of the overload in the work of the board. I would personally appreciate having the chance to ask her a few questions about her views.

Hon. Mr. Scott: Her views have no bearing on the question of the allocation the government will make, except that they are the views of the chairman of the board, but she is entitled to be here. She is here.

Ms. Gigantes: We would like discuss the allocations the government will make; that is our role. If we can understand what the significance of those allocation is by speaking to her, I think that would be helpful.

Hon. Mr. Scott: I do not object to it. She is here and she can come forward.

Mr. Chairman: We have agreement. Mrs. Scrivener, we would appreciate your taking a seat in a comfortable spot in the front row. If members have any questions they wish to direct to the chairman of the Criminal Injuries Compensation Board, they may do so. We welcome Mrs. Scrivener to our estimates deliberations. It is nice to see you.

Mrs. Scrivener: Thank you. I do not suppose I ever expected in other years to be sitting in this seat.

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Ms. Gigantes: I would like to go back to the question of the estimates and the actuals for a second, if I could start there. It indicates, when I read it in my simple-minded fashion, that compared to the 1985-86 actuals, the 1986-87 estimated expenditures, which we are being called upon to approve retroactively, would give your office and the board roughly the same figure to operate in one year as the next.

Mrs. Scrivener: That is true, within a few thousand dollars.

Ms. Gigantes: I do not understand how that happens. Perhaps that is something we can address when we go back–

Hon. Mr. Scott: I do not think you should ask the chairman of the board about the estimates.

Ms. Gigantes: No, I will not.

Hon. Mr. Scott: You can ask me.

Ms. Gigantes: I will ask you after we have had a chance to talk to the chairman of the board.

I, like other members, have heard some of the answers to questions that have been raised with

you by the media, which indicate you have a sense that the staffing of your office is not adequate; that even if you had more telephone lines at this stage, you would not have the staff to respond to people on those lines.

I would like you to spend a few moments and give us an understanding of whether it is the operation of the board itself or the operation of your office in terms of the adequacy of staffing, communications equipment and so on, what it is you see as the priorities in terms of improving the service.

Mr. Sterling: Ms. Gigantes, I am still on the staff question. I have a sheet that has been provided by Mr. Peebles. Perhaps you could give it to the chairman. Do you have a copy of this?

Ms. Gigantes: No.

Mr. Sterling: It shows the staff in levels here in 1984-85 as 16. In 1985-86, the actual was 17. In 1986-87, it is projected–and I assume that is actual–as 19.

Mrs. Scrivener: That includes the vice-chairman and myself.

Mr. Sterling: Do you sit on the board? Do you and the vice-chairman adjudicate?

Mrs. Scrivener: Occasionally.

Mr. Sterling: In addition to that, we have been told by the Attorney General that there are eight contract staff.

Hon. Mr. Scott: No, that is not what I said.

Mr. Sterling: There were the equivalent of eight.

Hon. Mr. Scott: There are eight part-time and contract people in addition to those people.

Mr. Sterling: There were the equivalent of eight on the 19. Were there contract staff in 1984-85 as well?

Mrs. Scrivener: I think we have had some GO Temp help. We have used GO Temp to pick up the slack whenever we got to a point where there was such an overload we just simply were not coping. More recently, the ministry has been under constraint. We are under constraint. Our allocation for part-time help ran out last summer and, basically, unless we can get a little something out the side door from the ministry, we just have not been able to use money for those purposes because we have used our allocation.

Mr. Sterling: So the eight part-time, equivalent full-time, jobs were used up by the summertime, in effect.

Mrs. Scrivener: Yes. We get three summer students provided by the ministry, which is a help. From time to time we are able to have GO Temp, or if we have a vacancy, as we had recently, we have a GO Temp come in to do that typing. I think it is a natural thing that has happened, but it may be that there are just so many reports, statements and sheets floating around that a natural error has crept in here.

Last year, we had a management consultant review our operation. He looked at what we were doing–that was through April, May and June–and at that time we were going full blast with GO Temp, extra help, people working overtime and so forth, all the things that were within our resources to pay for at that time. They came up with a figure. They said that with the staff we had and with the overtime and the extra help, in effect we were working the equivalent of 27 man-years. Perhaps that is where the figure has come to your desk.

Hon. Mr. Scott: It is also reflected by the salary allocations that have been made over the last two years which show those increases from $455,000 actual to $758,000 actual.

Mrs. Scrivener: I have a certain culpability for part of our predicament because my whole thrust when I came to the board was to try to reduce the backlog, speed up the process and reduce the blocks I perceived. I told my registrar that we had to mount more hearings, have more going on in the province and really push a lot harder to get things done. I think I am part of the reason we have been stressed. My whole thrust was to try to get more through and at least make some effort to keep up with our application rate.

I have been very well supported by the ministry in this. When we needed an extra hearing room created, I wrote to the minister and he very kindly acceded to my request and we revised our space to do these things. He heard me when I said I thought we needed an increase in our award levels. As you know, our act has been amended. As well, the minister has recently announced that he is making large sums available for a victims' assistance program. I think that is something with which we would naturally be integrated. All these things are ongoing in terms of a general scheme. However, as I say, perhaps I have been part of the problem because I have been pushing very hard to do more hearings.

Hon. Mr. Scott: It think it is fair to say that the chairman has not been part of the problem; she is part of the solution. She has been working very hard to bring into play these backlogs that have existed for a substantial period of time and are increasing because of the uptake of work I described earlier. The members of the committee will want to know that, unfortunately, in the

justice system there are significant backlogs in a wide variety of kinds of work, of which criminal injuries compensation is only one. It is one that the chairman is charged to deal with and that the government has to provide some resources to deal with. We are aware of it and we are working on it. I want to say that we have had good co-operation from the chairman.

Mr. Sterling: Notwithstanding, I have great difficulty that the salaries and wages part of your budget has gone from $455,000 to $758,000 projected for this year.

Mrs. Scrivener: I do not think so.

Mr. Sterling: Those are the figures shown here.

Ms. Gigantes: Those are not the figures in our book.

Mr. Sterling: They changed today.

Hon. Mr. Scott: You wanted up-to-date figures. We are trying to get them for you.

Mr. Sterling: That is right. I would have liked to have received these before. I presume the $758,000 that you have in your budget now, or you will be allowed to spend–

Mrs. Scrivener: I am sorry; you have left me because I do not know where that figure comes from.

Mr. Sterling: It comes from Mr. Peebles who is the man who signs the cheques.

Mr. Peebles: Did you not get a copy of that sheet?

Hon. Mr. Scott: I will give her a copy if she does not have one.

Mr. Sterling: Presumably, that is your budget for this year. Does that allow you to hire 27 competent people to do your work?

Hon. Mr. Scott: Could you give that to the chairman?

Mr. Peebles: She has it.

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Mrs. Scrivener: I am sorry. I did not realize I have to be reading this.

Ms. Gigantes: Did you know you had $758,000 this year?

Hon. Mr. Scott: She sure is spending it.

Mr. Sterling: Or did you think, as we thought, that you had $645,000?

Mrs. Scrivener: I do not know how this figure has been calculated so I cannot comment on it. It is a new set for me; I am sorry.

Mr. Sterling: Notwithstanding whatever you have been able to do to date, the projected case load is increasing substantially as well. You started with 1,700 new applications in 1984-85. This year it is 2,100 applications that you have received and are projected to receive to the end of March 1987. You are going to dispose of 1,600. That is what is projected at this time. You are going to be left with an outstanding number of 3,100 applications. The conclusion I draw is that you are not able to meet the demand with the increases you have received.

Mrs. Scrivener: No, this is an old song for me to the minister, the deputy and Mr. Peebles.

Hon. Mr. Scott: Always pleasant to hear it.

Mrs. Scrivener: When I came on this board and did a review of what had gone on before me and where we seemed to be heading at that time, we were then experiencing a general application increase running at a consistent 12 per cent per annum each month over the previous year's month. In other words, alike months such as December were still alike months the following year but it was still running 12 per cent on increase. We were proceeding at a predictable rate of increase. Then I thought that I have would to do more hearings, that this would be the only way I was going to cope with it.

I increased the number of hearings we were doing on circuit from one week to three weeks in the month; four days a week. With the minister's assistance, I also increased the number of hearings we could hold in the board; that is to say, our hearing space was doubled, we got two rooms instead of one room. Our whole thrust was to increase it so that we were going at full capacity in every direction. But even at full capacity we could only do it at the rate of nine per cent in terms of those figures that came in at 12 per cent, so I could never reduce the backlog, nor could I close the gap on the application rate.

Mr. Sterling: I am interested in reducing the backlog in terms of going the other way. For instance, what is the average time a person waits from the time he places his application to the time he receives his first cheque? What is the time span?

Mrs. Scrivener: For someone who has a very simple case that does not require investigation, is very simply documented or requires almost no documentation, it could be done within a year.

For someone who has a very complicated case it can take up to three years and sometimes longer. Perhaps there are some extenuating circumstances attached to it and we may ultimately need to have witnesses brought in to tell us their view of what happened in terms of the

occurrence. Sometimes a certain healing time has to take place if persons have been severely injured and are going to be left with disabilities. At other times an offender is before the courts, and out of courtesy to the solicitors involved we sometimes delay. Sometimes it is just a straight case of overload.

Hon. Mr. Scott: I would like to interject that it is very fashionable to talk, not only about the Criminal Injuries Compensation Board but also about courts in particular in terms of delay times; it takes a year, two and a half years or three years to come to trial. It used to be said, for example, that in Ottawa it took two and a half years for a nonjury superior court case to come to trial. If you meant by that the oldest untried case on the list, the oldest untried case on the list was two and a half years old. If you meant how long it took to get to trial if the parties declared it ready for trial, it was not two and a half years at all. Indeed, when they were saying several weeks ago that there was a two-and-a-half-year delay to get a superior court case tried in Ottawa, in fact, the court was actually hearing cases in the Supreme Court of Ontario that had been sent down for trial within the last six months.

In looking at the question of how long it takes, one always has to have some regard for the complexity of the case, for its nature. Many cases do not get tried quickly; for example, personal injury cases because the nature of the injury has not crystallized, the extent of damage has not crystallized. To build those factors into the delay is unrealistic.

Ms. Gigantes: That is not what we are talking about here.

Hon. Mr. Scott: Of course it is what we are talking about.

Mr. Sterling: There is a significant difference when you are comparing the criminal justice system to the Criminal Injuries Compensation Board. The chairman indicated that in a simple case, in which I assume the damages are provable and quantifiable in very simple terms and there would not even be a requirement for witnesses to be called, that was taking one year. That is a long time.

Hon. Mr. Scott: One other thing we will have to look at is dispensing with hearings. I am reluctant to do it but I think we will have to look at it with the assistance of the board. For example, the board currently disposes of a goodly number of cases without hearings. The chairman can give us the percentage. I do not know what the percentage is but these are cases of less complexity where the written record or the documentation, while not as perfect as an oral hearing, is sufficient to justify an award. It may be that we will have to increase the number of cases in which we pay without a hearing in order to deal with this backlog. It is probably cheaper to do that.

Ms. Gigantes: On a point of order, Mr. Chairman: I wonder whether we could have a chance to ask questions and then ask for the comments of the Attorney General. I wonder whether that would be in order.

Mr. Chairman: I do not think there are any rules that prohibit the Attorney General from interjecting when he sees fit, but I can ask him to voluntarily–

Hon. Mr. Scott: I am an elected member too, Ms. Gigantes. I will exercise my rights in precisely the way you, as an elected member, will exercise yours.

Ms. Gigantes: You will exercise your rights and you will exercise them within the decision of this committee, as a committee member. In fact, you are not even a member of this committee and you will bow to the will of this committee if we decide we are going to pursue a certain line of questioning.

Hon. Mr. Scott: If I decided to step outside the room, you would certainly say I was a member of the committee and haul me back quickly enough.

Mr. Sterling: You are not a member of the committee, but notwithstanding that, let us try to get some–

Mr. Chairman: This is not the point of dispute. Let us continue with questioning.

Mr. Sterling: In putting these questions, I was attempting to keep to the fact as much as I possibly could without going over to opinion, but once I asked a question in relation to the average length of a case, then I guess there is some question as to what is a fair figure and what is not a fair figure.

Notwithstanding that, I have to tell you, madam chairman, I am here to help you in terms of resolving this problem, and what I want to know and what I am sure Ms. Gigantes wants to know is what kind of resources are necessary in order to do that. I do not know whether that is a matter of opinion the Attorney General would like to differ on but perhaps he can comment on that as well. I have no problem with him doing that.

It does put you in a bit of a spot in terms of dealing with this, but just looking at the raw

figures, you are not gaining. If it is going up by 12 per cent or 13 per cent per year, as these figures show, and the projected case load is actually escalating each year, how do we resolve the problem? It appears from figures I have seen to date that there has been an increase in staff. What takes it over the boundary into something reasonable? I do not for a minute buy that victims should wait as long as people who are being tried, because I consider their rights prior to some of the accused people's rights. I do not think people who are being tried in this province are generally waiting as long as the victims who are being compensated, from everything I have heard.

I know it is a long time in Ottawa because we have not appointed any criminal division provincial judges for a long time. I want to talk to the Attorney General about that at some other time.

1630

Hon. Mr. Scott: We appointed one just a couple of months ago.

Mr. Sterling: We are still at the 1970 level there.

Hon: Mr. Scott: Be accurate.

Mr. D. R. Cooke: You cannot compensate. You have to try the accused first.

Hon. Mr. Scott: No.

Mrs. Scrivener: No, we do not.

Mr. Chairman: Could we avoid debate between members? Mrs. Scrivener may want to respond to Mr. Sterling, and I have Mr. Cooke on next followed by Ms. Gigantes.

Mr. D. R. Cooke: I do not wish–

Mr. Chairman: You raised your hand earlier.

Mr. D. R. Cooke: It was on Ms. Gigantes's point of order, which was out of order. I just wanted to argue it.

Mr. Sterling: You are handling a lot of money. What kind of people do you have in your accounting department?

Mrs. Scrivener: We do not have an accountant. Our registrar does our figure work.

Mr. Sterling: You are handling $5 million or $6 million and you do not have an accountant in your organization?

Mrs. Scrivener: No.

Mr. Sterling: You do not have any. How many of the 27 people are clerical staff? Do you know? Could you let me know?

Mrs. Scrivener: Yes.

Hon. Mr. Scott: If I can interrupt without getting Ms. Gigantes all upset, the question is a little unfair because the chairman of the board does not handle the money. The money goes out from the ministry, so she does not know with the kind of precision you are asking for what cheques are sent out.

Mrs. Scrivener: There are probably nine doing clerical work, typing and things of that nature. Very simply, we have myself and a vice-chairman who are full-time. Then we have the registrar, the chief of investigations and his assistant, Mr. Suter. We have three investigators. There are four secretaries and the balance would be clerical. I should have written down the numbers.

Mr. Sterling: I have five people in the investigation department, yourself, the vice-chairman and the registrar.

Mrs. Scrivener: Yes.

Mr. Sterling: And the rest are clerical staff?

Mrs. Scrivener: Yes.

Mr. Sterling: So all the people who are making decisions are included in the eight people.

Mrs. Scrivener: I have forgotten our three assistant co-ordinators, and we just had a new person transferred to us from the ministry in December. Now I have got it. That is eleven. That is eight in the general office.

Mr. Sterling: Where are these other nine? Nineteen plus eight is 27. Where are the other eight?

Mrs. Scrivener: I think that is just GO Temp coming and going.

Mr. Sterling: That is more clerical staff. That is contract help.

Mrs. Scrivener: Would that be the balance?

Mr. Peebles: Yes, that is where GO Temp would come in.

Mrs. Scrivener: That is the temporary help.

I want to comment on that remark you made earlier about backlogs and reducing backlogs. Last year when we had the management consultants with us for several months, it forced us to do a lot of hard thinking about what we do and how we were doing it. When we got to discussion of the backlog, they asked us: "Should your backlog be reduced and, if so, by how much; the total amount, part of the amount or half the amount?"

I said I thought it was like a roadway. You do not build an expressway to carry all the cars at 60 miles an hour. You build a roadway to carry all the cars moving at maybe 30 miles an hour. I think it is unrealistic to reduce the backlog totally. You want to bring the backlog down to manageable proportions, but you would always

have a backlog. I do not think you would ever operate without a backlog.

Ms. Gigantes: Could we refer to the sheet we have just been given with the new projected 1986-87 figures?

I look at the 1985-86 actual salaries and wages and I look at the projected 1986-87 salaries and wages. I add four per cent for the people who are on staff, part-time and full-time, in 1985-86, which I suppose was a general increase, and I see an increase of about $75,000 in the total salaries and wages component. That indicates to me a real increase of about 12 per cent in terms of salaries and wages. It would account for whatever new staff our new projected 1986-87 component would give us.

Then, if I look up the outstanding applications as of March 31 and we move to the 1985-86 actuals, 2,573, and I look at the new projected, 3,100, I see an increase of 20 per cent in the number of outstanding applications predicted for March of this year. Does that projected case load of 3,100 as of March 31 for 1986-87 look about right to you?

Mrs. Scrivener: That is approximately correct. They just come in faster but we are fairly fixed in terms of how many we can handle.

Ms. Gigantes: So we are looking at an increase, according to this sheet, of about 20 per cent in the case load in a year, and we are coming to the end of that year; and we have seen a net increase of 12 per cent in wages and salaries in real terms.

Mr. Sterling: Where is the holdup? Is it at the investigation level? Is it at the adjudication level?

Mrs. Scrivener: There are several blocks. The first block is in terms of the first processing because there is a certain volume of correspondence that has to proceed.

The second block is at the investigative level.

Mr. Sterling: Who deals with the correspondence at the first level?

Mrs. Scrivener: Our principal investigators and co-ordinators.

The second block is at the level of the investigations system, because we do not have enough investigators and it is work that has to be done very carefully by experienced persons.

The third block is the hearing process. It is a lesser block, but it is still a block.

Mr. Sterling: There are still not enough hearings.

Mrs. Scrivener: No. I have not got the capacity for the hearings.

Mr. Sterling: In terms of the number of investigators and co-ordinators, that seems to the important group where you are lacking.

Mrs. Scrivener: Yes, that is the key group.

Mr. Sterling: Did you say you have five investigators and three co-ordinators?

Mrs. Scrivener: Yes.

Mr. Sterling: You have eight in 1986-87. That is what you have now.

Mrs. Scrivener: Yes.

Mr. Sterling: How many did you have in 1985-86?

Mrs. Scrivener: Three investigators and two co-ordinators. We had one added in December. The ministry transferred someone to us in December 1985.

Mr. Sterling: That is 1985-86. Can you recall 1984-85?

Mrs. Scrivener: We did not have co-ordinators in those days. That was a new thing.

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Mr. Sterling: You had three investigators. I cannot make hide nor hair of the figures in terms of finding out where the problem is.

Hon. Mr. Scott: That is what you ask the Attorney General about, my friend.

Ms. Gigantes: If we look at the figures that have been presented to us under new applications, we have been told there is an increase of 12 per cent. When my colleague and I sat with the indisputable machine that does calculations, we worked that out to 17 per cent, not 12 per cent.

Further, under outstanding applications on the sheet we have been getting, we are told the percentage increase year over year is 15 per cent. I do not know how that was worked out. Maybe it was worked out over a three-year period, as opposed to a two-year period. But I see an increase between 1985-86 actual and 1986-87 projected of 20 per cent. It is quite easy to see that the number of outstanding applications is growing.

Hon. Mr. Scott: I told you it has grown 35 per cent in four years.

Ms. Gigantes: As well, we are seeing a 12 per cent increase in costs for staff allocations.

Hon. Mr. Scott: You have now established that all by yourself.

Ms. Gigantes: We know what the problem is.

Hon. Mr. Scott: And it is going to increase.

Mrs. Scrivener: The minister is correct in that we do have documentary hearings. They run several hundred every year.

Hon. Mr. Scott: It goes without saying that the number of victims who are eligible to apply may not be applying. The increase in the size of the awards may increase the number of applications. I am not here to create a whole new court system to deal with criminal injuries compensation.

It may be that we will have to develop a system for making these payments that does not depend on hearings. You simply make your application, there is an assessment of it and it is paid. If you are not satisfied, perhaps then you can ask for a hearing. We may have to go that route. We are watching it very carefully. We do not want to do so if it is unnecessary. No doubt some savings could be achieved.

Mr. Sterling: I have no further questions.

Hon. Mr. Scott: If you would let the chairman go, she could probably hear a case before 6:30.

Mr. Chairman: Rush out and reduce the backlog.

Mr. Sterling: That is why I am going to let her go.

Hon. Mr. Scott: Thank you for coming, Mrs. Scrivener.

Mr. Sterling: Do you have any more questions, Evelyn?

Ms. Gigantes: I think we got the information we need. Thank you very much.

Mr. Chairman: Thank you very much, Mrs. Scrivener. It is nice to have you with us.

I am trying to get the rotation straight again. May I move to Ms. Gigantes now?

Mr. Sterling: I would just like to ask the Attorney General how he is going to address the problem of reducing the number of outstanding cases.

Hon. Mr. Scott: I have indicated that we are increasing the salary component of the board annually. If there is not a decline in the number of cases coming in we may have to look at a new system. One new system would involve increasing the number of cases that are dealt with in summary fashion. Mrs. Scrivener already described a certain percentage of cases that are dealt with without hearing by the board; the payment is made. If we could double or triple the category that is dealt with without hearing it would reduce the number of hearings that were required and would lead to expedition. We may have to do that.

Mr. Sterling: Is that your answer?

Hon. Mr. Scott: I would be glad to have any other suggestions from you.

Mr. Sterling: From what I have heard, I am not sure the simpler cases are the problem; no doubt it is the cases where there is some entanglement and your investigators put in a considerable amount of time and effort in dealing with a number of matters. I do not think you are going to be able to address it unless you get more investigators, co-ordinators or whatever on it.

Hon. Mr. Scott: Certainly, the previous government could not address it, and it developed over its period of time. We have it; I am determined to deal with it. I think one of the ways is to increase the percentage of summary cases. If you are hearing, let us say, 2,000 cases, and you can reduce the number you have to hear by 1,000 and allow the other 1,000 to be paid out on a paper application, then you have reduced the hearing backlog by 1,000. I am not at all dissatisfied that this cannot be done. It is done with other tribunals, such as the Workers' Compensation Board, that pay out according to fairly standardized formulas.

Ms. Gigantes: On the question of workers' compensation, am I correct in understanding that a significant portion of the applications are made by police officers who suffer criminal injuries in the course of their duties?

Hon. Mr. Scott: Yes.

Ms. Gigantes: What percentage of applications?

Hon. Mr. Scott: I do not know, but I saw the figure recently. Is it one out of 10? Is that the nature of it, Mrs. Scrivener?

Ms. Gigantes: What is the number of applications that come from police officers in the course of carrying out their duties?

Mrs. Scrivener: Perhaps 0.001.

Ms. Gigantes: Very low.

Mrs. Scrivener: As a group, police officers from the regional police forces and the Ontario Provincial Police represent about 17,000 persons in this province. Of that number, we will have a maximum of 130 applications, and I can assure you most applications are very serious applications. They are compensated principally for pain and suffering. If a police officer is incapacitated in terms of his work, his hands or whatever, it is a very serious matter for him, especially if he is left with a permanent disability.

Ms. Gigantes: Do firemen make applications too?

Mrs. Scrivener: Occasionally. We have very few applications from firemen. We are aware there are probably many more police officers

who could apply to us but choose not to. The same is true of the citizenry, simply because there are some persons in our citizenry in Ontario who have been so severely injured and hurt by an occurrence that they want to turn the page on it. They do not want the money and they do not want anything further to remind them of what happened. This is especially true in the case of murder.

Ms. Gigantes: You have about 2,100 new applications predicted for the current year. About 130 will be from police officers?

Mrs. Scrivener: Maybe. I think as of the end of December the number was 89.

Hon. Mr. Scott: Per year or in total?

Mrs. Scrivener: As of the end of December 1986, it was 89. When you think in terms of the potential applicant rate, we probably have a very high rate of taxi drivers, who have a very hazardous occupation and sometimes suffer very grievous injuries, but I have never classified them as a group.

Ms. Gigantes: To go back for a second, we talked a lot the other day about an account in which I was trying to find moneys associated with the famous court renovation program. I was trying to associate that with vote 1106, item 1. I was told I had the wrong vote, so I would like a little more understanding.

Hon. Mr. Scott: What page are you at?

Ms. Gigantes: Here we go again. I always look at the white book. It is vote 1106, item 1. The account has gone from 1985-86 estimates of $1,824,400 to $7,715,100. When I look at the more detailed information that accompanies the white book, I see it is supplies and equipment. Is that furnishings for the courthouse?

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Hon. Mr. Scott: Yes, for Ottawa and Orangeville.

Ms. Gigantes: I would like to ask more questions about the account we have been given for the office of the public complaints commissioner. This is vote 1107, item 5.

I am assuming we will pass Bill 90 that deals with the extension of the public complaints commission through Ontario. Do you have any indication at this stage of what to expect in terms of expenditures within your ministry when the increase occurs? I ask this because I understand there is some concern in the ministry about what the cost is going to be when other municipalities start opting into the system.

Hon. Mr. Scott: We have no way of knowing because we do not know how many, if any, will opt in.

Ms. Gigantes: They will opt in on what kind of financial arrangement?

Hon. Mr. Scott: They will opt in on financial arrangements that are negotiated with the government. I do not think it is provided precisely in the act.

Mr. Sterling: I have an amendment on that.

Ms. Gigantes: There is an amendment on that; that is one of the reasons I am wondering.

Hon. Mr. Scott: The amendment has not passed yet, but in Metropolitan Toronto I think it is 50-50. We would look at that as a starting point from both sides, but there might be a case to be made for allowing a municipality to opt in at a different rate.

Ms. Gigantes: The 1986-87 estimate–I guess we probably have an update on that figure too–is $1,113,700. Is that the provincial share of that office or is that the total cost of the office?

Hon. Mr. Scott: It is the total.

Ms. Gigantes: So of that, in Metro, you would be receiving half?

Hon. Mr. Scott: We get half of that figure back.

Ms. Gigantes: Is there an accounting for that on page 105, under the comparative statement of revenue?

Interjection.

Ms. Gigantes: Do you have a 1985-86 actual for that at this stage?

Hon. Mr. Scott: For which, the reimbursement or the–

Ms. Gigantes: Both; the total and the actual share.

Hon. Mr. Scott: Could you answer the question into the microphone so it can be recorded?

Mr. Chaloner: The actual is shown on page 105 and the expenditure is the first line on page 103.

Ms. Gigantes: The amendment is proposing, in fact, that we move away from the 50-50 cost sharing on this, in essence.

Hon. Mr. Scott: Whose amendment is this?

Ms. Gigantes: It is your amendment, I believe.

Hon. Mr. Scott: It is not our amendment.

Mr. Sterling: I have an amendment to the bill that guarantees at least 50 per cent of the funding when the municipality opts in.

Ms. Gigantes: Is there any way one can make an estimate based on the figures that we currently have for the office, which I understand would be providing some centralized function?

Hon. Mr. Scott: One of the problems about trying to fix the contribution is that what you are really trying to do is ask the municipality to share part of the incremental cost. That cannot always be calculated in precisely that way. For example, if the city of Ottawa opted in, there would be significant expense added, because it is a large municipality and your approach to it might well be on a 50-50 basis. But if the town of Vanier or the village of Rockcliffe Park sought to opt in–

Mr. Sterling: They do not have enforcement.

Ms. Gigantes: No, they use the Ontario Provincial Police.

Mr. Sterling: Bad example.

Hon. Mr. Scott: All right, take an example from your neighbourhood, where there is a municipal police force. It may add a cost, because it is adjacent to the city of Ottawa and it is going to utilize the facilities that the city of Ottawa would have for the complaints commissioner, which are relatively modest. If you go to a more remote community–that is, a community where a local office has to be opened up–the cost would be more than incremental.

Mr. Sterling: But your bill says that every municipality that opts in gets an office.

Ms. Gigantes: No, it does not say that.

Hon. Mr. Scott: I do not think so.

Mr. Sterling: Are you sure?

Ms. Gigantes: Yes.

Hon. Mr. Scott: It says, "shall establish" an office, but I do not think it says it shall establish it in the municipality.

Mr. Sterling: What do you mean by "shall establish"?

Hon. Mr. Scott: Let us assume that the town of Vanier had a police force, because I cannot think of any other municipality down there, or the village of Rockcliffe Park.

Mr. Sterling: The city of Nepean or the city of Gloucester.

Hon. Mr. Scott: If the village of Rockcliffe Park had a police force and opted in, the bylaws of the village would prevent you from establishing an office in the village, because it is a residential village. What we would do is that we would establish one in the city of Ottawa on Springfield Road across from the village.

Ms. Gigantes: There is very little you know about Rockcliffe life. They do have a town hall and public facilities in Rockcliffe.

Hon. Mr. Scott: Owned by the municipality, not by the government.

Mr. Sterling: Let us get on with it.

Ms. Gigantes: I guess what I am interested in is, if the council of the city of Ottawa is considering opting in and it wishes to make an assessment of the benefits and costs of opting in, one of the costs will be financial. How is it going to determine, before it agrees to opt in, what the cost is going to be?

Hon. Mr. Scott: They can look at Metro, where it costs 25 cents per capita for the municipality to run this office. In the city of Ottawa, under the scheme that the act envisages, it would cost less than that, because a number of the services that Ottawa would utilize would be services that, in fact, are now provided in Toronto. We are not going to appoint another Judge Lewis for them; we are going to have to use the Judge Lewis we have–the former Judge Lewis. So they would move down from 25 cents per capita, and they would be able to make a fairly carefully calculated assessment of what it would cost per capita.

Then, having decided that, they would just look at their budget and see if this is the sort of expenditure they want to make and come to us and say, "If we opt in, can we opt in on the following basis?"

Mr. Sterling: There is no guarantee that the level of funding is going to stay at any level.

Hon. Mr. Scott: This is not entirely a financial question. The critical thing that Mr. Linden has made plain, and I think Judge Lewis agrees with this, is that a system as finely tuned as the complaints system depends very much for its efficiency and effectiveness on an act of the municipal will. The municipality has to want to be in this system or it is not going to work effectively. That is why the new bill is structured the way it is instead of simply saying that everybody will be in.

Ms. Gigantes: We could debate that item.

Hon. Mr. Scott: We can and will.

Ms. Gigantes: I am satisfied that we are not going to find out how much a municipality will be called upon to pay.

Hon. Mr. Scott: There is no way of knowing that, Ms. Gigantes. As I say, you can take what the municipality of Metropolitan Toronto has to pay, 25 cents per capita, and I think you can

safely work down from there. The arrangement that will be made, the contributory arrangement, will be one that will be made at the time between the government and the municipality.

1700

Ms. Gigantes: I do not want to get into argumentation around that. I have other matters I will raise.

Mr. Chairman: Mr. Sterling, we will go to you if you have any other matters.

Mr. Sterling: One matter I would like to raise with the Attorney General is a report I received yesterday from the Association of Provincial Criminal Court Judges of Ontario. I want to get his response to that report because it is quite an abnormal kind of situation where the provincial criminal court judges of Ontario get together and take on a quasi-political positioning.

On page 37, under "The Perception of the Provincial Government of the Provincial Criminal Court," the report states:

"The examination of criminal justice in the present provincial judge's criminal court which follows is the view from the inside, from the perspective of the judges who preside in those courts. It may serve to demonstrate the extent to which the governments of the province have responded to the above pleas for reform. It may also serve to illustrate one of the principal theses of this report; that the government and its executive do not understand the present role and function of the provincial court (criminal division) and as a result irrationally continue to characterize it as a decidedly inferior court, particularly in relation to the District Court, a court of essentially concurrent criminal jurisdiction.

"This 'caste' mindset manifests itself particularly in the fashion in which the government allocates resources in the justice system and becomes evident upon comparative examination of the provincial court and District Court systems in operation."

Would you care to comment?

Hon. Mr. Scott: Yes. I reject that. The whole point of the Zuber inquiry and the court construction program is designed to elevate the provincial court to a position of equality with the other courts. We dealt with this at considerable length yesterday. For example, we take the position in Ottawa, much criticized by some people, that the provincial court (criminal division) should be able to sit in any courtroom in that new building and that there should not be courts reserved for the superior court or the District Court that no other court can use. If the provincial court (criminal division) wants to use those courtrooms and needs to use them, it should have a priority claim on them. That is the position we have taken all along. There are other people who think the Supreme Court of Ontario should get precedence, the District Court should be next and the provincial court should be third. I do not accept that at all. The provincial court (criminal division) deals in bulk with most of the cases in our criminal justice system.

The other question we asked Mr. Justice Zuber essentially is, is there a way of realigning the courts so this hierarchy that has traditionally existed will be modified? I ask the question myself every day. Why do we need three trial divisions stacked one on top of the other with the judges of each in different robes and all the rest of it? A trial is a trial is a trial. The provincial court (criminal division) is as important in that process as anything else, if not more important.

The judges of the provincial court are upset with me for two reasons, or some of them are. First, they are not allowed to have independent arbitration of their wages in Ontario. We dealt with this yesterday. I made the point that in no other place in Canada do they have that. They would not expect to have it in Ontario and have never obtained it from any government.

Second, they feel very strongly that they do not get the remuneration to which they are entitled, and I am very sympathetic to them. The point I make to them is that lots of people do not; they do not get what they feel they are entitled to. What they do get is the second-highest income of provincial judges in the entire country. Alberta's rate alone is higher because it is tied to the federal rate. They are dissatisfied with that, and I understand their dissatisfaction. We are trying to work out a modification of the committee system that will make them feel more secure. I regard the provincial court as really the pre-eminent court in Ontario in terms of volume and its impact on our citizens.

Mr. Sterling: I do not sell the judges that far short. I think there are significant other problems that they identify and are concerned about. I think they are correct in saying, for instance, that there are not enough of them to deal with the existing case load. I go again to the Ottawa court situation. The criminal bar in that area knows how hard the existing provincial court (criminal division) judges are working: They are working damn hard. The fact of the matter is that there are not any more of them now than there were in 1970.

Hon. Mr. Scott: I will take responsibility for a year and a half of that if you will take responsibility for 15 years of that.

Mr. Sterling: I am willing to take my responsibility if you are.

Hon. Mr. Scott: You did nothing about it for 15 years. It is one thing to take a lecture from someone in an opposition party that has not had the responsibility of governing, but to take a lecture from the people who were the custodians of the system for at least the last 20 years and who did nothing to grapple with these problems is, except on a day when I am very rested, more than I can sometimes bear.

Mr. Sterling: Although you did not acknowledge it at the courthouse opening, this member, when he was a minister, did allocate or help allocate $50 million to that community to address a physical capital construction problem that was long overdue. We did not handle all the problems at that time.

Hon. Mr. Scott: You did not handle any others. Our capital budgets have gone up significantly since you people were put out.

Mr. Sterling: I am not privy to all the amounts the Attorney General is spending in that budget, but notwithstanding that, you cannot go back and for ever say, "You guys did nothing," and do nothing. The problem is that in Ottawa it is taking longer than it did, even when we were in government, to have a trial heard.

Hon. Mr. Scott: No, it is not.

Mr. Sterling: That is not what the criminal bar tells me. The criminal bar tells me too many accused are getting off on technical defences.

Hon. Mr. Scott: No. Mr. Justice Carruthers was at Ottawa shortly after the courthouse opened. Indeed, he met with the press, which asked him questions such as, "What about the two-and-a-half-year delay?" He pointed out that there was not any more two-and-a-half-year delay. The cases he had been trying in the weeks he was in Ottawa had been set down within the last six months. Some cases that have not been tried are two and a half years old, but that is not to say there is a two-and-a-half-year delay. There is not.

Mr. Sterling: I do not care whether it is two and a half years, six months, eight months or nine months, but when it gets beyond eight or nine months, you start to lose witnesses.

Hon. Mr. Scott: It is not in Ottawa.

Mr. Sterling: That is not what the criminal bar is telling me. You are differing with the criminal bar, which experiences it every day.

Hon. Mr. Scott: I see the figures. The fact is that we have 27 courtrooms in Ottawa now working full-time. We are in a position to deal with any backlog. There is one problem that will always occur, which is that we do not appoint Supreme Court judges. Therefore, the capacity of the Supreme Court to send down judges to Ottawa to fill the courtrooms is beyond our power. We have new courtrooms here, and the fact that they are not always filled with Supreme Court or District Court judges, whom we do not appoint, is not our fault. That is the responsibility of others. The fact is that in Ottawa and Toronto the facilities are now there. The judges we are authorized to appoint we have appointed, and in those two locations the backlogs are being cleared up.

One of the difficulties is that in the last years of the previous government, much of the allocation went to the Ottawa courthouse. There are 244 other locations in Ontario where courts sit. There is a major problem in repairing and modernizing a large part of that system. Ottawa is not where the problem is.

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Mr. Sterling: There is still a problem there, and do not kid yourself about it. There is no more courtroom space today than there was before that courthouse was built. Cases were being heard in chambers, as you well know, in a number of instances all the time. Cases were being heard in temporary accommodation all over the place.

Hon. Mr. Scott: We have the capacity to expand that courthouse by four courtrooms. I have indicated to the local bar, and it has agreed, that we will monitor the extent to which there are judges who want to sit on cases who have nowhere to sit. If we need one, two or four courtrooms, we will build them. The space is provided; they just have to be finished. I am not going to finish the space until I find out if the space is going to be occupied.

In Ottawa we are doing utilization studies that will show whether the space is occupied, but I am not going to ask the taxpayer of Ontario to spend $1 million to finish a courtroom if the courtroom next to it is not being fully utilized. When it is fully utilized–and that can be documented by an examination of the utilization rate–we will then build the next one.

I would rather put the $3 million that would actually be required to finish those four courtrooms into another town, like Hamilton, Windsor or Lindsay–Lindsay is not high on our list, I guess; there are some other communities–where the need is very real, where they do not have and

never have had facilities that come close to touching what exists in the city of Ottawa.

Mr. Sterling: Facilities are one thing, but you have to fill those facilities. I do not think you are addressing your own responsibilities in terms of provincial court judges (criminal division). You have the power to increase the number there, and I think you should.

Hon. Mr. Scott: If I may respectfully say so, the issue in Ottawa about courtroom space is whether we should complete an additional four courtrooms–

Mr. Sterling: That is the issue you have made, sir.

Hon. Mr. Scott: No. Will you just let me answer?

Mr. Sterling: You talk to the bar and they talk about how many judges–

Hon. Mr. Scott: No. I have been down to see the bar and we have discussed it. The issue they raise is that they want to complete four additional courtrooms for the Supreme Court and the District Court. That is where they say the need is in that courthouse. We will watch that and, if judges are provided by the federal government and are sent to Ottawa to try cases and there is full utilization, we will build those courtrooms. They are not asking us to provide any more facilities for the provincial court.

Ottawa, like other communities, would like more provincial court judges, but they are not asking for any more courtrooms. The four it is asking for are for the Supreme Court and the District Court.

Mr. Sterling: The problem with the backlog deals not only with court space but also with the appointment of judges, albeit some Supreme Court judges, but also provincial court judges (criminal division). That is within your mandate.

I see that I am not going to get anywhere with you, as the bar has not got anywhere with you on that particular matter.

The only other matter I would like to put forward is I think it is time the courts were merged, as has been done in every other province in this country. However, the longer you sit in that chair, the more difficult it will become.

Hon. Mr. Scott: That is what Mr. Justice Zuber will be dealing with. Apart from that, I did not understand your remark. The merger of the courts can be achieved in a variety of ways. I have long been of the view that to maintain three trial courts, which is what we do in Ontario, is not a prudent utilization of resources. As you know perfectly well, the question of merger has caused very great division among the practising bar and, of course, primarily among the judges themselves. The senior judges or the senior levels of court are not as favourable to merger as the more junior levels are. That is a reality.

I have no doubt that Mr. Justice Zuber will make his suggestion about what is appropriate and, with your help, we will implement what he suggests, if it is reasonable, as I am confident it will be. You know perfectly well that if we announced merger now, a large number of the judges would be very unhappy.

Mr. Sterling: I know that would be the case. I am not arguing.

Hon. Mr. Scott: The Supreme Court judges would be unhappier with me then than the provincial court judges are now.

Mr. Sterling: That may be the case. That is why I am saying the longer you sit there–

Hon. Mr. Scott: I do not understand.

Mr. Sterling: –the more difficult it will be for you to make the decision.

Hon. Mr. Scott: It is easy to make the decision if you have a report that says it is worth making.

Ms. Gigantes: Perhaps I should make an aside about political rights for public servants after you have just said that.

May I ask some questions about the office of the public trustee?

Hon. Mr. Scott: The public trustee is here. Perhaps I can ask him to come forward. I think you know Mr. McComiskey.

Ms. Gigantes: Yes, from last year. What I would like to ask has to do, starting out, with the recommendation of the standing committee on the Ombudsman that was tabled in the House a few days back on the unresolved dispute of jurisdictional powers that has been a long-standing problem between our current Ombudsman and our current public trustee.

Mr. McComiskey: I am sorry, I did not hear your question. I know what the subject is.

Ms. Gigantes: I would like to get an understanding from you and then from the Attorney General about what we can expect to come out of the report of the standing committee on the Ombudsman. Essentially, the standing committee has suggested to the Legislature that at this stage the discussion and conflict that exists between the Office of the Ombudsman and your office should be resolved by mediation, and I guess by decisions by the Attorney General.

Mr. McComiskey: There are two problems involved. The first is confidentiality. Under the Public Trustee Act, there is a section that prevents disclosure. I have taken the position throughout, since commencement of the Office of the Ombudsman, that this section of the Public Trustee Act prevents me from making any disclosure. If the Legislature wants to change the section and give the Ombudsman alone the right to inspect documents, I will have to live with that. I do not think it is my right to decide that. On the law at the moment, I have certainly questioned the right of the Ombudsman to have access to files.

Even if, by legislation that you pass the Ombudsman is given the right to have access, I have some concern about a case where the file I have is not the file of the complainant at all. For example, a funeral director may complain because he did not get payment of his account.

Ms. Gigantes: I am familiar with that case. You raised it before the Ombudsman's committee.

Mr. McComiskey: There are two of that kind. I would have some difficulty in my own mind in thinking that funeral director would have access, through the Ombudsman, to the file of a mentally incompetent patient.

Ms. Gigantes: There are two ways of looking at that matter, but go ahead.

Mr. McComiskey: The second problem is one of jurisdiction. In most cases, I am acting in a capacity where I am either appointed by the court or responsible to the court. When I am acting as an executor or an administrator of an estate, it is an appointment made by the surrogate court. If I am acting under the Mental Incompetency Act, I am acting by order of the district court. When I am acting under the Mental Health Act, I am responsible under that act for accounting, which again is to the district court.

There is a whole aura of trust law that sets up a procedure by which any person who is dissatisfied with what the public trustee has done is entitled to ask me to present my account to the court. They then have the opportunity of raising any question about anything I have done. As I see it, under the Ombudsman Act, until that procedure has been exhausted, the Ombudsman should not be involved in what are often rather complicated matters of trust law.

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We have had those two problems. To put it in perspective, we have about 65,000 current files. There are usually no problems–I may change my mind this week–that go to the Ombudsman with respect to the charitable files. There are very few that go to the Ombudsman in the deceased persons files. But if we take all the files, we have 65,000. Since the office of the Ombudsman was instituted, we are averaging about eight complaints a year.

When we wind up an estate, we send out a statement of account to a patient. In 10 years, we have only been requested to pass our accounts before the court on two occasions. There are not a lot of problems. The Ombudsman and I have disagreed on these two issues, the one of confidentiality and the one of jurisdiction. The committee has suggested that we enter into some sort of agreement with the assistance of the Attorney General.

Ms. Gigantes: I wonder whether we could have the Attorney General's comments on that.

Hon. Mr. Scott: The public trustee is the statutory officer. While our government can introduce legislation to amend his act, as he has noted, once his act is in place and he is in place, until he is removed or resigns he has a public duty to perform and is answerable only in a general sense to the executive. I do not quarrel with the view he has expressed about his assessment of his obligations under the statute; nor, in the same way, do I quarrel about what the Ombudsman who is in a comparable position has to say about his assessment of his responsibilities under a different act.

To come directly to your question, we are trying to develop a protocol that will represent the views of both these public officials about the question of the Ombudsman's right in a way that will not require a statutory amendment and will let them both function efficiently and on terms that satisfy each of them.

Ms. Gigantes: Do you feel you are close to that protocol?

Hon. Mr. Scott: We do not want to say so because we do not want to upset the negotiations, but I think we are getting there.

Ms. Gigantes: I have not seen a copy of your ministry's report on the office of the public trustee. When was that done? I understand one exists.

Hon. Mr. Scott: I do not know. I can try to find out but I am not aware of such a report. Perhaps I should be.

Ms. Gigantes: Concerns were raised in my mind when I read newspaper reports within the last year of a case that had been taken against a member of the staff of the public trustee's office.

It was a case of theft in which a jury found the person who was charged guilty. A judge subsequently threw the matter out. It raised in my mind the question of the financial operations within the public trustee's office.

Hon. Mr. Scott: The public trustee is here. Feel free to ask him any questions.

Mr. McComiskey: I thought the remarks of the judge were unfortunate, and I had the chance to say that to him. The problem was that we had a cashier who was in a position to take in money and money went missing. It was discovered by our own internal auditor. The matter came up and it was discovered in our own office that, in a rather intriguing way, records had been moved and changed. We had some discussion as to how it was best handled.

Eventually, the police were called in and charges were laid against that individual. There was an eight-day preliminary trial and the woman was committed to trial. She elected trial by judge and jury and after a four-and-a-half-day trial, the jury found her guilty. Then the judge decided that he would have come to a different conclusion and gave her an absolute discharge. The crown has appealed that sentence and there is a cross-appeal by the accused on the conviction so the matter is still before the court.

Our office handles a great deal of money. We have three accountants on staff. We have an internal auditor who reviews it from our side. The ministry's auditors were in at length last year, and as of last year we are subject to the government audit. Before that, we were audited by outside auditors. We really do not have trouble with our bookkeeping or with our accounts. I have no hesitation in saying that. I thought the judge's remarks were unfortunate.

Ms. Gigantes: Have you instituted any changes in your accounting methodologies over the last while?

Mr. McComiskey: Basically, no. There were some minor things that came out as a result of this money disappearing. There was one simple thing. Two cashiers are working together day by day. One of them took money in at noon hour and when her associate came back, she handed the money over the wicket and did not get a receipt for it. That left her possibly suspect for having taken in money that was not accounted for.

The chief cashier had keys to two cages. We have eliminated that so that each cashier has exclusive access to the financial cage in which he or she operates. They are minor things such as that. We never had a problem before and we have adjusted in that way. Basically, our accounting system has not changed. As far as I can tell, there is no need to change because any suggestions made by auditors in the past have been implemented and I do not know of any changes required at this time.

Ms. Gigantes: When the ministry became involved in the annual audit, what differences did that make in terms of your operation?

Mr. McComiskey: I think this was a general exercise by the ministry with its internal auditor, so other than taking the time to have them there to do it, they made some suggestions. One of them was that when we have investigators going out to make investigations, they should go in groups of two. That is a considerable increase in cost, and while I am not certain that sending even two people reduces the chance of theft–it maybe just doubles it–we have never had a problem with that in 65 years. It seemed like a very high insurance premium to pay to add six on a staff to have somebody ride along as the coachman just to make sure that the first person did not take anything. That was turned down by the Management Board of Cabinet in any event.

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Ms. Gigantes: Can you explain a little about what that recommendation was? I do not quite understand because I do not understand the processes there. Does that mean when a person is sent out to investigate the assets of an individual?

Mr. McComiskey: It could be. If a patient is admitted to a psychiatric hospital today and my office is charged with the responsibility of looking after his estate, one of the things we do is get a financial statement from the business office of the hospital. I have five investigators, one of whom may then go to the residence of the patient and go through the residence to see if there are securities, cash or other valuables there that somehow should be brought under control.

The same thing can happen with the estate of a deceased person. If an individual dies in Toronto today and there is no will and apparently no heirs, my office may be called to take on the administration of the estate. If I send an investigator out, he may find in that house bank books, bonds, jewellery or cash. We find some very unusual things. In one case, for example, one of the things we found was $50,000 in an oven. We have found $30,000 in the false bottom of a trunk. We have found $2,200 in a margarine container. An investigator going in by himself would have the opportunity of taking some of that money. Often, though, our people are

coming in after the apartment superintendent, the police or friends have been in.

All I am saying is that when we send in one investigator, there is an element of risk that the investigator can take assets and there is a risk to the investigator that he may be accused of taking assets. We have never had a complaint about that in the history of the office. The recommendation of the internal auditors was that we should send out a second investigator. They would go in groups of two so that, in a sense, one could check on the activities of the other.

Ms. Gigantes: This was from auditors on your staff?

Mr. McComiskey: That suggestion was made by the ministry's internal auditors, although it is a problem we have considered as long as I have been there. We recognized the issue but felt that since our investigators were bonded and there had been no problems, it was a risk we had to live with.

Ms. Gigantes: It was the Provincial Auditor who did an audit of the office last year for the first time?

Hon. Mr. Scott: Yes, I understood that is what the public trustee said.

Mr. McComiskey: Before that it was done by an outside firm, Thorne Riddell.

Ms. Gigantes: Has the Provincial Auditor made any recommendations?

Mr. McComiskey: He asked a question about whether we wanted to change our report each year. He is not making any suggestions on that. He says it is perfectly satisfactory from an accounting point of view but he seems to say we may want to include some other figures. One of the figures we feel we could put in, and we have started to do this, is money transferred each year by way of escheat to the consolidated revenue fund. We think that can be reflected in some manner in the financial statement.

He has asked that we disclose in the financial statement the amount of capital changes. The figures are there in the report, but it is a matter of subtraction to calculate them and the Provincial Auditor made the suggestion that we might just show that figure specifically.

There were other minor things that were talked about, but nothing, I think, of consequence.

Ms. Gigantes: In relationship to the office of the public trustee and the changes that have been or are being contemplated with mental health legislation in Ontario, is there activity in the ministry that would lead to changes in the legislation governing the public trustee's office?

Hon. Mr. Scott: I think the answer is no. Whether more or fewer people come within the jurisdiction of the public trustee's office is something, but the operation of his office–the way it does things, the process–is not likely to alter. They are the custodians, managers and accountants, in a small "a" sense, of estates that are brought within their jurisdiction. You can expand or contract the number of estates that are brought within the jurisdiction, but once they are the function becomes, if I have it right, very much the same.

Mr. McComiskey: The committee, under Stephen Fram of the policy development division, has been looking at the whole field of mental health. One of the areas that has been talked about is guardian of the person. There have been discussions about appointing a personal public guardian. As I see it at the moment, that is a task that might be put on the public trustee.

If that were done, then it would mean some differences in the operation of the office. It would become a manager of persons as well as manager of estates, but that is still being discussed.

Hon. Mr. Scott: That recommendation has not been made yet, of course. The guardianship committee has not made its report yet.

Ms. Gigantes: I guess when it does we will get into a whole discussion of that matter. Those were the questions I wanted to raise with you. Thank you very much.

Hon. Mr. Scott: Thank you, Mr. McComiskey.

Ms. Gigantes: A field day, eh?

Mr. Chairman: Yes. I think Ms. Gigantes can carry on.

Hon. Mr. Scott: It is her turn again.

Mr. Chairman: We seem to have a number of members absent at the moment.

Ms. Gigantes: There are two other questions I would like to ask that I have notes on. I would like to ask the minister about the situation of crown attorneys in the province and what he sees happening in terms of the crown attorneys' case loads and whether the Zuber report will address whether an adequate supply of crown attorneys is part of the problem in the delivery of the justice system through the courts.

Hon. Mr. Scott: To be clear, if I have it right, there are really three groups of lawyers we are talking about with which you may be concerned. First of all our crown attorneys, strictly speaking, that is to say people who are agents of the

Attorney General who conduct prosecutions in Toronto or any other city or community in the province.

Second, there are crown law officers, who are usually in the ministry and do criminal work in the nature of appeals and special prosecutions, who may also be and probably often are crown attorneys in Ontario, though they do not have offices out in municipalities, but they would do special prosecutions, appeal work and so on.

Then, of course, there are the lawyers in the Ministry of the Attorney General who do other work, either policy work or civil litigation, and the legal service lawyers who are seconded to ministries and provide opinions and do legal work for them.

Ms. Gigantes: It is case three I would most like to hear your views on.

Hon. Mr. Scott: You are referring to the crown attorneys' negotiations that occurred last–what?

Ms. Gigantes: Yes, and the related matters of case load and so on.

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Hon. Mr. Scott: If I am right, the crown attorneys who came to us to discuss their wages were primarily the crown attorneys out in the field.

Interjection.

Hon. Mr. Scott: The deputy points out that the people who came to us and whose views were expressed in the press were the members of the Crown Attorneys' Association, which comprises two groups of lawyers on the staff of the ministry: the crown attorneys in the field and the criminal crown law officers who work essentially at 18 King Street East. They made a series of requests of government about their remuneration and their working conditions. I think it is fair to say that they were, in the best sense, a kind of stalking-horse for other lawyers who were not numbered among them but who would be expected to benefit by changes in remuneration if their remuneration changed.

They had a number of concerns which they discussed with us about money and working conditions. We took some steps that begin to respond to their concerns. We are meeting with them regularly. The work-to-rule or whatever was proposed never took place.

Ms. Gigantes: As I understand, it was never threatened.

Hon. Mr. Scott: I think it was. I did not hear anybody threaten it and no one threatened me, but I certainly read about it in the papers.

Ms. Gigantes: Do you associate any of the problems you have asked Mr. Justice Zuber to look at with the role, work load and so on–in fact, the organization–of the crown attorney service?

Hon. Mr. Scott: Coming into office and now, I feel that the crown attorneys in Ontario are heavily overloaded. To maintain the system at the standard that was regarded as appropriate when I came out of law school and which we have not had for many years in this province, we are going to have to hire a large new work force and compensate them at levels that have not been traditional in the Ontario public service. That is a long-term exercise. It is an exercise we are going to have to take on. I do not think it is really a matter on which Mr. Justice Zuber is going to report, although he may since he can report on anything he wants. But it would not really be one of the structural concerns that are primarily referred to him.

The fact is, in many counties–and Metropolitan Toronto is an example–each crown attorney is, by and large, heavily burdened with work. In some county towns, the burden is not as great, but they are working very hard.

Ms. Gigantes: But you would not consider that part of the mandate of Mr. Justice Zuber?

Hon. Mr. Scott: It is not directly. He is entitled to look at, and we have asked him to look at, the structures of the court system, including the criminal court system. He will very quickly see, as I have said before and I think it is obvious, that the system is stressed because there is not, in my opinion, a recognized consensus in the public mind about what it is supposed to be doing. That is why it is stressed. He may have to deal with that, if he sees the stress, in terms of devising a new structure. But I do not think he will be dealing with crown attorneys per se.

Ms. Gigantes: So you would consider that to be an initiative that has to be undertaken by your ministry in any case, no matter what he says. Have you developed any plans about how you are going to approach that?

Hon. Mr. Scott: We are looking at methods of modifying our system. We have retained some consulting services, but what we confront, essentially, is what every ministry confronts, from the Criminal Injuries Compensation Board to the crown attorney staff to the Ministry of Health. We would like to have lots more people doing the work we have to do. I am sure Mrs. Scrivener would like to have more people. I would like her to have more people. I would like

to have more crown attorneys. Mr. Elston would like to have more psychiatrists. But apparently there are limits to what the taxpayer will pay, and I have found in this job that you spend most of your time saying "no" to perfectly legitimate, desirable demands.

Ms. Gigantes: You have heard us before on this topic. I certainly do not feel that in this day and age–

Hon. Mr. Scott: Yes, but you criticized me for raising the taxes.

Ms. Gigantes: I have not noticed your raising any taxes.

Mr. Chairman: I have.

Hon. Mr. Scott: She has not noticed, but you have.

Ms. Gigantes: I think it would be a shock to most of the public to realize what a small proportion of our provincial budget is devoted to our justice system. But we do not need to go through that.

Hon. Mr. Scott: That is true. It is also fair to note–and this is why I am concerned about structures–that we put more people in jail, have more judges at work, more courtrooms per capita, more crown attorneys and, God knows, more lawyers than almost any other place in the world. If it was a question of resources, there would be no place better equipped to deal with justice than Ontario.

Ms. Gigantes: There is nobody arguing that there would not have to be a readjustment in how we do this.

Hon. Mr. Scott: But we tend to focus on the resource question. In the 25 years I have practised we always have more courtrooms and more judges. We ram the stuff back down the system. We will lighten the Supreme Court's load by getting the district court to do it; we will lighten its load by getting the provincial court to do it. It may be wrong, but my whole sense is that we have reached the limit of that process. To give us twice as many judges as there are in the United Kingdom is not likely to advance on our problems more than incrementally.

Ms. Gigantes: You have not heard me argue that.

Hon. Mr. Scott: No, but that argument is constantly made out there.

Ms. Gigantes: What the argument is out there and what it is here can be quite different.

Hon. Mr. Scott: But in this sense "out there" is more important. It is not that the elected member is not critically important, but the people who run the system are out there; they are not in here.

Ms. Gigantes: Mr. Chairman, I think the minister will remember that when I raised the matter of his ministry's plans for addressing, in particular the work load of crown attorneys, quite apart from the pay, I was asking him whether he thought it was a significant problem. He said, "Yes." I asked him whether he had plans to address it, and he said, "Yes." At least, he had hired a consultant to help him with that.

Hon. Mr. Scott: We are going to have to ask the crown attorneys in Ontario to work as hard as they can to deal with the problems of our criminal justice system. I am sometimes embarrassed to do that, but that is the reality. In fairness to them and their families, if I could get more time out of them I would be asking them for it.

Ms. Gigantes: May I ask one question? I do not know whether it is related or not; I would simply like your opinion on it. My understanding is that a 16-to-18-year-old who is charged with a traffic offence, usually speeding, has to go to court, while other people who are charged with speeding can get a ticket, fill it in and send the money off.

Hon. Mr. Scott: That is not true. If he or she is under 16–

Ms. Gigantes: They should not be driving at all.

Hon. Mr. Scott: There have been one or two known to do so. If they are charged and they are under 16, they are dealt with by the federal Young Offenders Act. There are different rules in respect of that.

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Mr. Sterling: Maybe the confusion results from the fact that they are charged with a provincial offence like speeding. If the person is 16, he or she will be tried in an adult court, which could be a traffic court, in front of a magistrate or a provincial court judge. If he or she were charged with a criminal offence, it would be tried in a youth court.

Ms. Gigantes: That still does not help me. Why is a 17-year-old going to a court, whatever court?

Mr. Sterling: He has driven too fast, that is the problem. If he drives over a certain speed then he has to go to court.

Ms. Gigantes: I am talking about traffic offences. If I speed I do not have to go to court, I have to pay a fine.

Mr. Sterling: It depends on how fast you go.

Ms. Gigantes: I guess I have never speeded.

Hon. Mr. Scott: The member is right. There are some offences for which you can get a ticket and which you can pay a fine by mailing in your money. There is no distinction as I understand it. If you have a ticket offence, it does not matter how old you are, you can pay the ticket by mail. If you are charged with a criminal offence or a provincial offence–

Mr. Sterling: If you are charged, for instance for speeding 40 kilometres per hour over the speed limit, then I believe you can pay. If you go something like 60–I may not be right on that–there is a breaking point where it becomes serious and you have to go to court.

Mr. Charlton: That would likely be a case where the charge becomes careless.

Mr. Sterling: No. It is still a speeding charge.

Hon. Mr. Scott: No, I think it is right that there is a break between what is regarded as the less serious speeding that you can pay by mail and the more serious speeding, about which the Legislature in effect has said, "You cannot pay by mail because you are going to fast and you have to go to court." I do not think there is any break in that process in terms of age.

If you are charged under the Criminal Code and you are under 16, you then fall under the Young Offenders Act.

Ms. Gigantes: That is not what I am talking about.

Hon. Mr. Scott: If you would like to give me the name of the person who had this experience, I will look into it and find out what happened.

Ms. Gigantes: I will look up the clipping. The only thing I was ever charged with was careless driving and I did not have to go to court.

Hon. Mr. Scott: Well, there are gaps in the system.

Ms. Gigantes: The policeman could not believe that I said I was guilty.

Mr. Chairman: Could I just interject for a moment before we carry on. Ms. Gigantes, I believe, has one other item, if I am correct in my counting of the number of items that you have indicated you wish to address.

Ms. Gigantes: I also have a matter of the order of this committee I would like to raise before we–

Mr. Chairman: That is why I wanted to ask the committee's indulgence and perhaps suspend our discussions in about five minutes, if that would give you adequate time. There are a couple of matters that I want to discuss. One is the agenda of the committee on the pay equity issue, the hearings and so forth. Second, the budget for the committee. Is there anything else that has to be discussed? I guess those two issues will take us the better part of five minutes.

Ms. Gigantes: I just have one other question.

Mr. Chairman: Could we keep our eye on the clock? Is it the wish of the committee that we will not engage the Attorney General in the final hour that I spoke of yesterday? In other words we will take the vote today on 1101 to 1107 inclusive, carry that and that will let the Attorney General take his leave.

Ms. Gigantes: Yes. If I could ask one question. I wonder if I could get from whomever is dealing with this matter in the ministry an update on what is happening with the application for the general chartered accountants to be able to expand the level of their services in Ontario.

Hon. Mr. Scott: I have met with all sides of that dispute and have heard them out, as my predecessors did, and we have not yet made a decision.

Ms. Gigantes: Is there any process going on now?

Hon. Mr. Scott: I do not know that I can call it process. We meet periodically. We were very hopeful that there would be some agreement achieved between these professional groups. There has not been as yet, but we have solved some more intractable problems, so it may be solved yet. We dealt with the architects and interior designers, which was almost as bad, and we seem to have got that to rest. I am very hopeful we will solve this one, but we do not have an agreement by the groups, and the government has not taken any decision.

Ms. Gigantes: Do you expect to make a decision unilaterally at some point if there is no agreement?

Hon. Mr. Scott: We may have to. That will be for the government of the day to decide, on recommendation no doubt. If you have any suggestions to solve the problem, let me know.

Mr. Sterling: I think it is extremely confusing for the public when they are dealing with an accountant. There is the certified general accountant, the public accountant, the registered industrial accountant.

Mr. Chairman: Or a chartered accountant.

Mr. Sterling: Yes. I only hope that whenever you make your decision, you remember not only what the professions want–and I know how strong each one of them is–but also what the guy

in the street wants and what he is getting when he walks into an accountant's office. I do not think the guy in the street really cares as long as whoever he is walking in to see has a level of competence and the right to call himself an accountant.

Hon. Mr. Scott: I agree with you that the level of competence is the issue. The major difficulty is that the groups do essentially the same thing, but it is called something different. The magic word that everybody wants to be able to have an exclusive handle on or to share, depending where you are, is "audit."

Ms. Gigantes: That is right.

Hon. Mr. Scott: That is the problem.

Mr. Sterling: I know the problem. The problem has been there for a long period of time. We did not address it either.

Hon. Mr. Scott: Do you have any suggestions?

Ms. Gigantes: It is time.

Hon. Mr. Scott: We have to leave some problems to our assistants.

Mr. Sterling: Just before we wrap up–

Mr. Chairman: A quick point.

Mr. Sterling: Yes. Leaving this in a rather light manner, I thought I would tell the Attorney General that when I was attending a political dinner the other night, there was an indication by one of the guest speakers that they were now substituting lawyers for guinea pigs. The speaker explained this was for two reasons: number one, there are now more lawyers in Ontario than guinea pigs; and number two, there is more emotional attachment to guinea pigs than lawyers.

Hon. Mr. Scott: Did you laugh?

Mr. Sterling: Yes, I did as a matter of fact.

Hon. Mr. Scott: It is a good joke, but a very old one. It extends back to the days when I think there were more guinea pigs in Ontario than there were lawyers.

Mr. Chairman: That goes a long way back.

Hon. Mr. Scott: A long way back.

Mr. Sterling: How many lawyers are there in the Legislature now? Do you have any idea?

Ms. Gigantes: It is much lower than it used to be.

Mr. Sterling: There are more former teachers in the Legislature in Ontario.

Mr. Poirier: It is 27.8.

Hon. Mr. Scott: I am trying to think how many there are in our party.

Ms. Gigantes: Too many.

Hon. Mr. Scott: There would not be more than 10.

Mr. Poirier: There must be a quota somewhere.

Mr. Chairman: Members of the committee, I would like to move along on the vote. If there is nothing further to bring before the Attorney General, shall votes 1101 to 1107, inclusive, carry?

Ms. Gigantes: Carried, with the complaint that they are not adequate.

Votes 1101 to 1107, inclusive, agreed to.

Supplementary estimates agreed to.

Mr. Chairman: This completes consideration of the estimates of the Ministry of the Attorney General.

The committee considered other business at 6 p.m.

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Charlton, B. A. (Hamilton Mountain NDP)
Cooke, D. R. (Kitchener L)
Gigantes, E. (Ottawa Centre NDP)
Poirier, J. (Prescott-Russell L)
Sterling, N. W. (Carleton-Grenville PC)

Witnesses:

From the Ministry of the Attorney General:

Scott, Hon. I. G., Attorney General (St. David L)
Peebles, D. R., General Manager, Programs and Administration Division
Scrivener, M., Chairman, Criminal Injuries Compensation Board
Chaloner, R. F., Deputy Attorney General
McComiskey, A. J., Public Trustee